



to a Bad Conduct Discharge (BCD). Subsequently, the findings and sentence in your SPCM were affirmed and you were issued a BCD on 1 September 1998.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to change your discharge characterization of service and your contentions that your satisfactory performance and good military behavior, family circumstances at the time of your misconduct, and denied request for a humanitarian transfer warrant reconsideration of your discharge type. For purposes of clemency and equity consideration, the Board considered your statement and documentation you provided in support of your application.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your extended UA had on the good order and discipline of your command. The Board further considered the service-discrediting nature of your conduct while in a UA status, which included a civilian arrest and confinement for burglary of a habitation. Additionally, the Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization.

Finally, the Board found no evidence in the record to support your contention of a request for humanitarian transfer. The Board reviewed the documentation you submitted to support your contentions and found the documentation requesting your presence at home was a 3 December 1997 request from your mother, which was after your extended UA. The Board also considered the undated letter from you to the court, indicating you knew you should return to your unit and request a humanitarian transfer, but you could not take a chance of something happening to your mother while waiting for the transfer. Therefore, the Board was not persuaded by your contention that you went UA after being denied humanitarian leave.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD. While the Board carefully considered the evidence you submitted in mitigation and commends you on your post-discharge accomplishments, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when

applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

11/12/2024

