



28 September 1973, you received NJP for assaulting a Corporal and failure to obey a lawful order. On 10 December 1973 you received a mental health evaluation and were diagnosed with immature personality that existed prior to entry. On 21 December 1973, you commenced a twenty-eight-day period of unauthorized absence (UA), during which you were in the hands of civilian authorities and found guilty of possession of marijuana with intent to distribute. You returned from UA on 17 January 1974. On 20 February 1974, you commenced a twenty-three-day period of UA that ended in your surrender on 15 March 1974. On 25 April 1974, you were convicted at Summary Court Martial (SCM) of two specifications of UA, from 21 December 1973 to 17 January 1974 and 20 February to 15 March 1974. You were sentenced to reduction in rank to E-1 and forfeitures of pay.

On 2 May 1974, you commenced a five-day-period of UA, during which you were in the hands of civilian authorities for public drunkenness and suspicion of grand theft auto. On 21 May 1974, you commenced a twenty-one-day period of UA that ended in your surrender on 11 June 1974. You returned to a UA status from 11 to 12 June 1974. You then commenced a two-day period of UA from 19 to 21 June 1974. On 28 June 1974, you were placed in confinement, in the hands of military authorities.

On 5 September 1974, you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for six specifications of UA: 2 to 7 May 1974, 21 May to 11 June 1974, 11 to 12 June 1974, 19 to 21 June 1974, and two specifications of absence from appointed place of duty; disobeying a lawful order from a non-commissioned officer (NCO); disrespect toward an NCO; disrespect toward a staff NCO (SNCO); disobeying a lawful order from an SNCO; assaulting an SNCO; violating a lawful General Order; and drunk and disorderly conduct. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted, your commanding officer was directed to issue you an Under Other Than Honorable conditions (OTH) discharge, and on 27 September 1974, you were so discharged.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta and Wilkie Memos. These included, but were not limited to, your desire to change your discharge characterization of service and your contentions that your mental health concerns mitigated your misconduct. For purposes of clemency and equity consideration, the Board considered your statement, the mental health records, and the letter from a Licensed Master Social Worker you provided.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 1 August 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health concerns during military service, which may have contributed to the circumstances of his separation.

Petitioner submitted evidence of mental health treatment from June 2008 to July 2013 for diagnoses of Personality Disorder Not Otherwise Specified (NOS) and Mood Disorder due to Medical Condition. "Client was enlisted in the Marines from

1969-73 and served in █. He received a dishonorable discharge for insubordination...Client was previously seen...for individual sessions from 1990-1992, and over that period of treatment he dealt with some level of past trauma including death of his mother at an early age, rejecting by father, and incest issues related to his aunt.” He provided an April 2025 letter from his civilian mental health provider describing treatment from January 2024 to April 2025 for a diagnosis of Unspecified Depressive Disorder.

In October 1990, the Petitioner sought mental health treatment. “He initially said that he was coming in to deal with his dishonorable release from the Marines which occurred in 1974 after he became insubordinate to a mess hall s[ergeant]t...Impression is that the client is triggered around the responsibility and commitment of a 9 month old...coupled with the threat of loss of aunt...who is marrying in March.”

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated on two occasions. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by the mental health clinicians. Post-service, he has continued to receive mental health treatment for personality disorder, as well as another mental health concern that is temporally remote to his military service and appears unrelated. The Petitioner’s misconduct appears consistent with his diagnosed characterological difficulties, rather than evidence of another mental health concern incurred in or exacerbated by military service.

The AO concluded, “it is my considered clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition, other than personality disorder.”

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 NJPs, SCM, civil offenses, and separation in lieu of trial by court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct, which ultimately led to your request for an undesirable discharge to avoid trial for your offenses. The Board also noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and, more likely than not, would have resulted in a punitive discharge and/or extensive punishment at a court-martial. Therefore, the Board determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that may be attributed

to military service and insufficient evidence to attribute your misconduct to a mental health condition, other than personality disorder.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta and Wilkie Memos and reviewing the record liberally and 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,

12/30/2025

