



Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers, and in the absence of substantial evidence to the contrary (as is the case at present), will presume that they have properly discharged their official duties.

Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Navy on 3 June 2003, with an other than honorable (OTH) characterization of service, your narrative reason for separation is "Misconduct," your separation code is "HKK" which corresponds to misconduct - drug abuse, and your reenlistment code is "RE-4."

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 12 November 2021. The AO noted that the lack of clarifying information made available did not provide enough markers to establish an onset and development of mental health symptoms or identify a nexus with your misconduct. The AO concluded by opining that the preponderance of objective evidence failed to establish that you suffered from a mental health condition at the time of your military service or your in-service misconduct could be mitigated by a mental health condition.

In response to your submission of new supporting documentation, the mental health professional reviewed your request and provided the Board with an additional AO on 15 December 2021. The AO noted your additional statement and your submission of the Department of Veterans Affairs (VA) decision document. The AO further noted there is no information or details provided about an incident in which you state you "almost died and woke up in a hospital....a major factor in your PTSD." Additionally, there remains a lack of objective evidence that your misconduct arose from a mental health condition. The AO concluded by opining that the preponderance of available evidence fails to establish your in-service misconduct was mitigated by a mental health condition.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contentions that: 1) your command failed you in every way possible; you are never going to be the same again; 2) you were never granted proper treatment once you almost died; 3) you can never get past all of what you have been through, you served with honor; 4) you did not use drugs, and you still do not use drugs; and 5) there was a witch hunt against you. Unfortunately, after careful consideration of your supporting documentation and both advisory opinions, even under the liberal consideration standard, the Board discerned no procedural defect, impropriety, or inequity in your discharge and determined your service was appropriately characterized as other than honorable. The Board concluded there was insufficient evidence of an error or injustice that warrants upgrading your characterization of service.

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 upgrade your discharge character of service or receive "honorable benefits," and your contentions as previously discussed. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your NJP, which

involved the wrongful use of a controlled substance in light of the Navy's zero tolerance policy, outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined 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,

1/14/2022



Executive Director

Signed by: 