



Unauthorized absence, totaling 19 days; and Charge III: Unlawfully carry on your person a concealed weapon, to wit: Model P-380 automatic handgun. Prior to submitting this request, you conferred with a military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, you admitted your guilt to the foregoing offenses and acknowledged that your characterization of service upon discharge would be other than honorable (OTH). Your commanding officer (CO) then forwarded your request to the separation authority recommending approval of your request. Your CO also noted that Charge I of your perspective charges had been withdrawn and certified that the remaining charges were accurate. The separation authority approved your request and directed the CO to discharge you with an OTH characterization of service. As a result, you were spared the stigma of a court-martial conviction, as well as the potential penalties of a punitive discharge. You were discharged on 10 July 1992.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 11 February 2022. The AO noted that there is no evidence that you were diagnosed with a mental health disorder during military service. Throughout your disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. The AO further states that you have provided no post-service medical evidence in support of your mental health claims. While your service record confirms the stab injuries with on-going medical issues, the AO states there is limited behavioral evidence of PTSD symptoms in your service record. Additionally, while an unauthorized absence could be attributed to unrecognized avoidance consistent with PTSD, the AO concluded it is difficult to consider how cocaine distribution would be attributed to PTSD. Finally, the AO determined that though it is possible that carrying a concealed weapon could be indicative of hypervigilance symptoms associated with PTSD, it seems more likely that the concealed weapon was related to the dangers associated with the drug trade. The AO concluded additional records were required to render an alternate opinion and stated that there is insufficient evidence that you may have incurred PTSD during military service or that your misconduct could be attributed to PTSD.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contentions that: 1) you were a young teenage kid whom made some mistakes and was influenced by others, which resulted in your involvement with drug use and developed a substance abuse problem. You further state that you have received help for your substance issues; 2) you no longer feel that you should be punished for mistakes you made as a teenager; and 3) you deserve to have your discharge upgraded and be allowed the benefits you earned for your time in service. Unfortunately, the Board, applying liberal consideration, relying on the AO, and noting you did not submit any documentation regarding your PTSD, did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded 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 and contentions as previously discussed. For purposes of clemency consideration, the Board noted

your post-service record as evidenced by your statement; however, you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your request to be administratively separated to avoid trial by court-martial, outweighed these mitigating factors. In reviewing the evidence of your misconduct, the Board concluded that the misconduct was serious and showed a complete disregard for military authority and regulations. Finally, the Board noted you received a benefit from being allowed to separate with an OTH character of service instead of risking greater punishment at a court-martial. As a result, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or sufficient evidence to warrant clemency. 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,

3/27/2022

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Executive Director

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