



related incident (Driving Under Influence). You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 8 August 1986, you received non-judicial punishment (NJP) for dereliction in the performance of duty and simple assault. On 8 March 1988, you received your second NJP for wrongful use of cocaine. Subsequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to drug abuse. You were advised of, and waived your rights to consult with military counsel and to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation and directed your OTH discharge from the Navy. On 4 April 1988, you were discharged from the Navy by reason of misconduct due to drug abuse with an OTH 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 that you incurred depression following the harassment and degradation you experienced on Shellback Day, which you further state contributed to your substance use to cope with your mental health condition. Additionally, you assert that since your discharge, you have completely changed your life and you have received certifications in "EPS, Water Heater Repair, HVAC, and Pool Repair." You further state that you are a prominent member of society by mentoring boys and being a leader within your church, you are no longer on drugs and have not participated in any since 1994. For purposes of clemency consideration, the Board noted you provided advocacy letters but did not provide supporting documentation describing post-service accomplishments.

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 15 April 2022. The AO noted in pertinent part:

During military service, the Petitioner was diagnosed with a substance use disorder. Substance use is incompatible with military readiness and discipline and considered amenable to treatment, depending on the individual's willingness to engage in treatment. There is no evidence that he was not responsible for his behavior or unaware of his misconduct. Throughout his military processing, there were no concerns raised of another mental health condition that required evaluation. Unfortunately, he has provided no medical evidence in support of his claims. His current statements are temporally remote from military service and insufficient to establish a clinical diagnosis. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) are required to render an alternate opinion.

The AO concluded, "[b]ased on the available evidence, it is my clinical opinion that there is insufficient evidence of a mental health condition that could be attributed to military service, other than his substance use disorder identified during military service. There is insufficient

evidence that his misconduct could be attributed to a mental health condition other than his substance use disorder.”

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 two NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact your misconduct included a drug offense. Additionally, the Board concurred with the AO and determined that there is insufficient evidence that your misconduct could be attributed to a mental health condition other than your substance use disorder. Finally, while the Board considered your advocacy letters and commended you for your post-discharge good character, they ultimately concluded that it was insufficient mitigation evidence to outweigh your misconduct. As a result, the Board determined your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. After applying liberal consideration, the Board 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. 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,

7/2/2022

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Executive Director

Signed by: █