



22 November and 20 December 1978, you received nonjudicial punishment (NJP) for being disrespectful in deportment, dereliction of duty, and disobedience. During the period of 8 October 1979 to 21 January 1981, you had two periods of unauthorized absence (UA) totaling 451 days. On 5 March 1981, you submitted a written request for an undesirable discharge for the good of the service in order to avoid trial by court-martial for the above periods of UA. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. Subsequently, your request for discharge was granted and, on 30 March 1981, you received an Other Than Honorable (OTH) discharge in lieu of trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

A qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that you were suffering from Post-Traumatic Stress Disorder during your service. The AO noted in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during military service. He has provided no post-service medical evidence to support his claims. While it is possible that his misconduct could be related to unrecognized PTSD avoidance symptoms, it is difficult to establish a nexus with his misconduct, given the limited information regarding his purported traumatic events in service. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, onset, 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 that the Petitioner may have incurred PTSD during military service. There is insufficient evidence that his misconduct could be attributed to PTSD."

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 statement that you had orders to go to █ but they were taken and you were sent back to █. Further, that you previously received NJP at █ and was sent back to the same Battalion. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and two lengthy periods of UA, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined that it showed a complete disregard for military authority and regulations. Further, the Board also determined that you already received a large measure of mitigation when the Marine Corps agreed to accept your request to be discharged in lieu of trial by court-martial. Finally, the Board concurred with the AO that insufficient evidence exists to conclude that your misconduct could be attributed to PTSD. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine 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 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,

5/14/2022

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Executive Director  
Signed by: █