



Subsequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense and misconduct due to pattern of misconduct. You were advised of, and waived your procedural right to consult with military counsel. The separation authority directed your administrative discharge from the Navy with a General (Under Honorable Conditions) character of service by reason of misconduct due to commission of a serious offense, and on 22 February 2002, you were so discharged. You previously applied to the Naval Discharge Review Board but were denied relief on 9 August 2007.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 1 March 2022. The AO noted that your official military personnel file (OMPF) did not contain evidence of a diagnosis of a mental health condition or reported psychological symptoms/behavioral changes indicative of a diagnosable mental health condition. Additionally, the Board noted that your submission of supporting documentation supported a post-discharge of PTSD; however, it did not provide sufficient evidence of markers of PTSD during your service. The AO noted that you did not provide clarifying information about the trauma related to your PTSD or information about your mental health condition (MHC). Additionally, that your supporting documentation only contained the first two pages of your Department of Veterans Affairs rating decision, thus omitting the pages that explained how you met the criteria for the diagnosis of PTSD. Based on the lack of clarifying information made available, the AO determined there were not enough markers to establish an onset and development of mental health symptoms or identify a nexus with your misconduct. The AO therefore concluded that there is insufficient objective evidence to establish an association between your reported mental health symptoms and exhibited behaviors with your contended traumatic stressors or to determine possible mitigation of your in-service misconduct.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contention that you have been suffering from "PTSD, paranoid behavior, anxiety, and depression after the initial incident" that took place in █. Additionally, you state that you had no idea that you were suffering from these conditions and you sought help from a therapist and after speaking with the Department of Veterans Affairs doctors. You further contend that you were "accused of sexual assault and rape" against a female student but never touched the female; a fact confirmed by DNA evidence. Unfortunately, the Board, applying liberal consideration, relying on the AO, and noting your submission of documentation regarding your mental health condition, 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 submission of supporting documentation, your contentions as previously discussed and your desire to upgrade your discharge character of service. For purposes of clemency consideration, the Board noted your submitted documentation; 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 three NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined it showed a complete disregard for military authority and regulations. As a result, the Board determined the negative aspects of your service outweighed the positive and continues to support the General (Under Honorable Conditions) characterization. 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,

4/28/2022

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Executive Director

Signed by: █