



argue that you witnessed the torture of a man while on active duty that was the cause of your substance abuse.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 14 March 2022. The AO states in pertinent part:

There is no evidence the Petitioner was diagnosed with a mental health condition during his military service. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. However, his service record does contain behavioral evidence of possible undiagnosed substance use disorders. Post-service, he has received treatment from the VA for multiple substance use disorders; an Other Trauma and Stressor-Related Disorder, which is a mental health condition related to PTSD; and other medical conditions. Unfortunately, the statements from the Petitioner and his medical provider are not sufficiently detailed to establish a nexus with his misconduct. 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 concludes, “[B]ased on the available evidence, it is my clinical opinion that there is insufficient evidence that the Petitioner's has a PTSD diagnosis that could be attributed to military service. There is post-service evidence that other mental health conditions (multiple substance use disorders and an Other Trauma and Stressor-Related Disorder) could be attributed to military service. There is insufficient evidence that his misconduct could be attributed to PTSD or another mental health condition, other than a potential substance use disorder.”

In reviewing the circumstances of your separation and characterization of service, the Board considered the totality of the circumstances to determine whether relief is appropriate today in the interests of justice in accordance with guidance provided by the Wilkie memo. After careful review, the Board concluded that your misconduct, as evidenced by your multiple NJPs and misconduct that formed the basis for your good of the service discharge request, outweigh the mitigating factors. Specifically, the Board considered the seriousness of your misconduct, that included drug use and a long term unauthorized absence, and determined it showed a complete disregard for military authority and regulations. In addition, the Board concurred with the AO that there was insufficient evidence to attribute your misconduct to a mental health condition. 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. The Board did not find evidence of an error or injustice that warrants upgrading your characterization of service, changing your separation code or the granting of clemency. Accordingly, 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,

5/10/2022

X

Executive Director

Signed by: