



of pending administrative separation action by reason of misconduct due to civil conviction. You elected to consult with legal counsel and requested an administrative discharge board (ADB). However, on 13 July 1977, civil authorities convicted you and sentenced you to confinement for six months confinement, probation, and court cost. During the period from 21 to 31 August 1977, you received two additional NJPs for Unauthorized Absence and absence from appointed place of duty. On 12 October 1977, the ADB found that you committed misconduct due to civil convictions and recommended you receive an Other Than Honorable (OTH) characterization of service. The separation authority (SA) concurred with the ADB and directed an OTH discharge by reason of civil conviction. On 28 October 1977, you received another NJP for absence from appointed place of duty and on 9 November 1977, you were so discharged.

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 and contentions that you incurred a mental health condition during military service, which contributed to your misconduct, you were young and made a mistake, served honorably in the █, served in █, and was stationed in █. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

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

Among the available records, there is no evidence that the Petitioner was diagnosed with a mental health condition during military service. Throughout his military processing, there were no concerns raised of a mental health condition that required evaluation. Unfortunately, he has provided no medical evidence in support of his claims. His current statement is temporally remote from military service and insufficient for a clinical diagnosis. Additional records (e.g., post-service medical 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 diagnosis of PTSD or another mental health condition that could be attributed to military service. There is insufficient evidence that his misconduct could be attributed to PTSD or another mental health condition."

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your nine NJPs and two civil convictions, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that your conduct showed a complete disregard for military authority and regulations. In addition, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to PTSD or another mental health condition. As a result, the Board concluded your conduct was a significant departure from that expected from a Marine and continues to merit an

OTH characterization of service. 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,

6/10/2022

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Executive Director

Signed by: █