

On 5 October 1990, you received a warning counseling on your frequent involvement with military authorities. On 29 January 1991, a special court-martial (SPCM) convicted you of two specifications of failure to pay debts totaling \$1483.89 and an unauthorized absence (UA). In March 1991, you completed 36 hours of instruction in the Alcohol and Drug Abuse Prevention Program. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. You elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to a pattern of misconduct 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 misconduct due to a pattern of misconduct. On 12 February 1992, 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, your post-service Department of Veterans Affairs (DVA) diagnosis, and contention that you incurred a mental health condition during military service which contributed to your misconduct. 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 2 May 2022. The AO stated in pertinent part:

That there is no evidence that Petitioner was diagnosed with a mental health condition in military service. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. Post-service, the VA has determined service connection for treatment purposes for PTSD with depression. Unfortunately, the Petitioner's personal statement and the VA records are not sufficiently detailed to provide a nexus with his misconduct. Additional records (e.g., mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering 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 with Major Depressive Disorder 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 two NJPs and SPCM conviction, 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of

facilitating VA benefits, or enhancing educational or employment opportunities. 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,

7/4/2022

