



You enlisted in the Navy and began a period of active duty on 28 January 1981. You subsequently completed this period of active duty, on 16 May 1981, with an Honorable characterization of service. You commenced a second period of active duty on 20 September 1982 and also completed this period honorably, on 19 August 1984, and immediately reenlisted. On 6 November 1984, you received non-judicial punishment (NJP) for wrongful use of phencyclidine (PCP) and larceny. Subsequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to drug abuse, at which time you elected your procedural right to consult with military counsel and to present your case to an administrative discharge board (ADB). On 14 March 1985, an ADB was convened and determined that the preponderance of the evidence supported a finding of misconduct and recommended that you be separated from the Navy with an Other Than Honorable (OTH) characterization of service. The commanding officer then forwarded your administrative separation package to the separation authority (SA) concurring with the ADB's recommendation. The SA approved and directed your administrative discharge from the Navy with an OTH characterization of service. On 18 July 1985, you were discharged from the Navy with an OTH characterization of service by reason of misconduct due to drug abuse.

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 character of service and assertion that while stationed onboard the █ you experienced the bombing of the Marine Barracks and Embassy in █, some of your fellow shipmates were Marines that were transported over to █ and some never returned. You further state that, after this experience, you never have been the same. Additionally, you contend that you have never been in any trouble and you were a hard working Sailor with good evaluations. 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 noted in pertinent part:

There is no evidence that he 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, although substance use was noted. Substance use is incompatible with military readiness and discipline and considered amenable to treatment, depending on the individual's willingness to engage in treatment. There is no evidence that the Petitioner was not aware of the potential for misconduct when he used substances or was not responsible for his behavior. Additionally, it is difficult to attribute larceny to a mental health condition. Unfortunately, the Petitioner has provided no medical records in support of his claims. His personal statement is not sufficiently detailed to establish a clinical diagnosis or 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 that may be attributed to military service. There is insufficient evidence that his misconduct may be attributed to PTSD.”

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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. Additionally, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service, and there is insufficient evidence that your misconduct may be attributed to PTSD. When weighing the evidence, the Board concluded your conduct was a significant departure from that expected from a Sailor and still warrants OTH characterization of service. Despite your prior periods of Honorable 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,

7/12/2022

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Executive Director

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