



and four specifications of breaking restriction. Prior to submitting this request, you conferred with a military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, you admitted your guilt to the foregoing offenses and acknowledged that your characterization of service upon discharge would be Other Than Honorable (OTH). The separation authority approved your request and directed your commanding officer to discharge you with an OTH characterization of service. As a result, you were spared the stigma of a court-martial conviction, as well as the potential penalties of a punitive discharge. On 11 February 1976, you were discharged from the Marine Corps with an OTH characterization of service by reason of Good of the 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 supporting documentation and your desire to upgrade your discharge character of service. The Board also considered your contention that you incurred an alcohol use disorder during your military service, which contributed to your misconduct. Additionally, you contend that your military lawyer presented papers to you for you to sign without explanation; you believed that the papers were meant for you to be released from the brig; however, you were discharged after signing the papers without explanation. For purposes of clemency consideration, the Board noted you provided advocacy letters that described post-service accomplishments.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 4 May 2022. The AO noted in pertinent part:

During military service, the Petitioner was diagnosed with a personality disorder, indicating lifelong characterological features rendering military service unsuitable to him. This diagnosis was based on observed behaviors and performance during his service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. Throughout his disciplinary processing, there were no concerns raised of another mental health condition that would have warranted a referral for evaluation. Unfortunately, he has provided no medical evidence to support his claims. His personal statement is not sufficiently detailed to establish a clinical diagnosis or provide a nexus with his misconduct. Additionally, problematic alcohol use is incompatible with military readiness and discipline considered amenable to treatment, depending on the individual's willingness to engage in treatment, and does not remove personal responsibility for actions. Additional records (e.g., post-service 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 of another mental health condition, other than his pre-service personality disorder diagnosis, that he may have experienced during military service. There is insufficient evidence that his misconduct may be attributed to PTSD or another mental health condition."

In response to the AO, you provided a statement explaining the circumstances of your case that led to your alcohol abuse.

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 two NJPs and multiple violations of the Uniform Code of Military Justice (UCMJ) that subsequently led to your request for separation, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of military authority and regulations. The Board also noted that the misconduct that led to your request for separation for the good of the service was substantial and, more likely than not, would have resulted in a punitive discharge and extensive punishment. As a result, the Board concluded you already received significant mitigation from being allowed to separate with an OTH character of service instead of risking greater punishment at a court-martial. Finally, the Board concurred with the AO and determined that there is insufficient evidence that your misconduct may be attributed to PTSD or another mental health condition. Based on these factors, the Board determined your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. 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,

7/7/2022

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Executive Director

Signed by: █