



of pay. On 5 January 1993, you received your third NJP for two specifications of failure to obey a lawful written order. Subsequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct. You were advised of, and waived your procedural rights to consult with military counsel and to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. The SA approved and directed your OTH discharge from the Marine Corps. On 14 May 1993, you were discharged from the Marine Corps with an OTH characterization of service by reason of misconduct due to pattern of misconduct.

Post-discharge, you petitioned the Naval Discharge Review Board (NDRB) for an upgrade to your characterization of service. The NDRB denied your request on 8 April 1996.

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 contentions that: (1) you were to receive a “medical discharge” upon separation, however, you were told by an officer that he was not giving you the discharge recommendation by the chief medical officer because he felt that you did not deserve to be discharged that way; (2) there was prejudice involved in the decision making process and it should be corrected; (3) OTH discharges were given to Marines if they had legal issues off base, you never had legal issues off base; and (4) a correction should be made to your record because it represents the morals and values of not only the Marine Corps, but for all of the branches of the military. 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 19 May 2022. The AO noted in pertinent part:

Petitioner’s OMPF did contain evidence of a diagnosis of a Personality Disorder and Alcohol Dependence. Although there is behavioral evidence of alcohol use disorder in the record, problematic alcohol use is incompatible with military readiness and discipline and considered amenable to treatment, depending on the individual’s willingness to engage in treatment. Records indicated Petitioner elected to receive treatment from the local VA due to his pending legal issues. There is no evidence he was unaware of the potential for misconduct when he began to drink or was not responsible for his behavior. A personality disorder indicates a lifelong pattern of unhealthy behaviors and thinking patterns unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of the military. Unfortunately, his personal statement is not sufficiently detailed to establish an alternate clinical diagnosis and there is no evidence of another mental health condition acquired during or exacerbated by military service. 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 considered clinical opinion, that there is insufficient evidence to of a diagnosis of PTSD that can be attributed to military service, or that his in-service misconduct/behavior can be attributed to PTSD or another mental health condition.”

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 three NJPs and SPCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. Further, the Board noted your misconduct included several offenses that could have caused grievous injuries to others including assaulting another Marine with a razor blade and driving under the influence of alcohol. The Board also considered the negative impact your conduct likely had on the good order and discipline of your command. Additionally, the Board found no evidence to substantiate your contention that you were processed for a disability discharge. Regardless, the Board determined you were ineligible for disability processing based on your misconduct based discharge that resulted in an OTH characterization. Finally, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD that can be attributed to military service, or that your in-service misconduct/behavior can be attributed to PTSD or another mental health condition. As a result, 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,

7/20/2022

