



apprehended by Shore Patrol for public intoxication with a BAC of .15. On 30 September 2004, you were again screened by the SARP. The SARP recommended you for Level 1 treatment and scheduled you to see a Licensed Independent Practitioner (LIP). On 7 January 2006, you completed Level 1 treatment. On 2 July 2006, you were arrested and charged by civilian authorities for public intoxication. Because of your last instance, in accordance with naval regulation you were considered an alcohol rehabilitation treatment failure. On 21 August 2006, the SARP/LIP noted you met the criteria for alcohol abuse, but did not recommend treatment. Subsequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to civilian conviction and alcohol rehabilitation failure. 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). The separation authority directed your administrative discharge from the Navy with a General (Under Honorable Conditions) characterization of service. On 5 December 2006, you were discharged from the Navy with a General (Under Honorable Conditions) characterization of service by reason alcohol rehabilitation failure.

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 contentions that you suffered from an undiagnosed alcohol dependency condition, your quality of work was not affected, and your performance evaluations were always positive. For purposes of clemency consideration, the Board noted you provided a college transcript; however, you did not provide other 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 not contain evidence of a diagnosis of a mental health condition, other than Alcohol Abuse for which he received treatment. 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. There is no evidence he was unaware of the potential for misconduct when he began to drink or was not responsible for his behavior. Unfortunately, his personal statement does not indicate an alternate clinical diagnosis and there is no evidence of another mental health condition within the records provided. 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, there is insufficient evidence of a MHC that can be attributed to military service, or that his in-service misconduct could be attributed to a MHC, other than his Alcohol Use Disorder."

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your inability to comply with the requirements of the alcohol rehabilitation program, as evidenced by your two separate alcohol related incidents in June 2004 and July 2006, outweighed these mitigating factors. In making this finding, the Board considered the fact you were provided multiple opportunities to overcome your alcohol abuse through counseling and treatment. The Board also considered the negative impact your conduct likely had on the good order and discipline of your command. Furthermore, the Board concurred with the AO that there is insufficient evidence of a mental health condition (MHC) that can be attributed to military service, or that your in-service misconduct could be attributed to a MHC, other than your Alcohol Use Disorder. As a result, the Board determined that significant negative aspects of your active service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) 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,

7/28/2022

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Deputy Director

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