



separated with an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct. However, based on your continued misconduct, you were eventually referred to a court-martial on 6 February 1990.

On 5 February 1990, you requested an OTH discharge characterization of service in lieu of trial by court martial. On 28 February 1990, your administrative separation proceedings were determined to be sufficient in law and fact. On 2 March 1990, the discharge authority approved your request for an OTH discharge in lieu of trial by court martial. On 29 March 1990, you were 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 for a discharge upgrade and contentions that you served with high honors, that your mental health condition changed, and that your mental health condition went untreated. 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, the Board considered the AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during military service. Throughout his disciplinary actions, counseling's, and administrative processing, there were no concerns noted which would have warranted referral to mental health resources. Although he claimed Post-Traumatic Stress Disorder (PTSD), he did not provide a timeline of his purported trauma, describe symptoms which would meet the criteria for PTSD, or indicate how those symptoms interfered with his ability to function. Unfortunately, the dearth information made it difficult to establish an onset and development of mental health symptoms or identify a nexus with his in-service misconduct. Additional records (e.g., postservice medical records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) are required to render 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 could be attributed to PTSD."

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, SCM, and request to be discharged in lieu of court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. Further, the Board considered the likely negative effect your conduct had on the good order and discipline of the unit as well as the discrediting effect your apprehension by civilian authorities had on the Marine Corps. Finally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. As a result, the Board concluded 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 that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the 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,

8/2/2022

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Deputy Director

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