



You previously applied to this Board for a discharge upgrade but were denied on 2 March 2022. The Board determined the mitigation evidence you submitted in support of your request was insufficient to offset the seriousness of your misconduct.

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 and contentions that you suffered from a mental health condition that mitigated your conduct. Further, the Board considered your arguments from your statement that the Marine Corps had other options than to accept your good of the service discharge request. For purposes of clemency consideration, the Board noted you failed provided supporting documentation describing post-service accomplishments and 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 3 June 2022. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition during military service. Throughout his administrative processing, there were no concerns noted which would have warranted referral to mental health resources. Post-service, he has a diagnosis of a mental health condition (Bipolar I disorder) that is temporally remote to his military service. Although the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-V) lists the mean age of onset of the first episode of Bipolar I Disorder as 18, the provided evidence in this case indicates that the Petitioner's symptoms became sufficiently interfering to require treatment in 2002. Although the Petitioner claims that his symptoms were interfering during his military service, this is inconsistent with his statement in service that family considerations, rather than symptoms of depression, were the reason for his UA. Additionally, in-service statements regarding a civilian employment opportunity post-discharge indicate that his mental health symptoms were not sufficiently interfering to preclude his ability to work. It is difficult to attribute an extended absence from service to an episode of depression or mania, given the absence of any evidence of treatment or impairment during his UA. While the Petitioner claims that his service record is incorrect and there was not an extended absence but rather a series of abbreviated periods of UA, there is no evidence to support his contentions. Unfortunately, the inconsistencies between the Petitioner's current statements and the information found in his service record make it difficult to attribute his misconduct to unrecognized mental health symptoms. Additional records (e.g., a detailed statement or mental health records describing his period of UA, symptoms experienced during that time, 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 mental health condition that could be attributed to military service. There is insufficient evidence that his misconduct could be attributed to a mental health condition.”

In response to the AO, you provided an extensive statement arguing that your mental health condition was undiagnosed, disputing the findings of the AO, and providing additional clarification of the circumstances of your misconduct. In addition, you argue that your post-discharge good character provides further evidence that your misconduct was due to a mental health condition.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your 1,199 days of UA and subsequent request to be discharged for the GOS, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined that your conduct showed a complete disregard for military authority and regulations. In addition, notwithstanding your arguments in rebuttal, the Board concurred with the findings of the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. Further, the Board also determined that, even if there was a nexus between your misconduct and an undiagnosed mental health condition, the seriousness of your misconduct would outweigh the mitigation effect of your mental health condition. In their opinion, your extended period of UA, that only ended because of your apprehension, was too serious of an offense to be offset by your arguments of a mental health condition. The Board found that your actions to go UA were intentional, you were mentally responsible for your misconduct, and chose to remain in an UA status willfully until you were caught. In the Board's opinion, your conduct had a negative effect on the good order and discipline of your unit and was discrediting to the Marine Corps. All of these factors led them to reach their aforementioned conclusion that the mitigation evidence regarding your mental health condition was insufficient to offset the seriousness of your misconduct. Finally, the Board considered that you already received a large measure of clemency when the Marine Corps agreed to discharge you for the good of the service; thereby sparing you from the stigma of a court-martial conviction and likely punitive discharge. As a result, the Board concluded your conduct was a significant departure from that expected from a Marine and your OTH discharge remains appropriate. While the Board commends your post-discharge good character, 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,

8/16/2022

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