



by reason of misconduct due to misconduct due to drug abuse. 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 Navy with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation for administrative discharge and directed your OTH discharge from the Navy. On 16 December 2005, you were discharged from the Navy with an OTH characterization of service by reason of misconduct due to drug abuse.

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 you were “embarrassed and in a bad way” after learning that your spouse was having an affair, you believe that you were having “anxiety” and started smoking marijuana to cope with the situation, and that you were trying to a way to cope and did not know how to ask for help. For purposes of clemency consideration, the Board noted you provided advocacy letters but no supporting documentation describing post-service accomplishments.

As part of the Board’s review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 23 July 2022. The AO noted in pertinent part:

Petitioner’s OMPF did not contain evidence of a diagnosis of a mental health condition or reported psychological symptoms/behavioral changes indicative of a diagnosable mental health condition. Petitioner did not provide any information (in-service or post-service) which indicated he suffered from a mental health condition (i.e., no diagnosis, no medical/mental health records). Symptoms described by Petitioner (“panic attacks,” sweats, isolating) are symptoms indicative of stress versus anxiety, particularly given his identified trigger of his wife’s infidelity. Stressors in military life are different from those in civilian life and although healthy coping skills are important, the lack thereof does not constitute a mental health condition. 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 mental health condition (MHC) that can be attributed to military service, or that his in-service misconduct could be attributed to MHC.”

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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved the wrongful use of a controlled substance in the Navy’s “zero tolerance” policy environment. Furthermore, the Board concurred with the AO and determined that there is insufficient evidence of a MHC that can be attributed to your military service or in-service misconduct. Finally, absent a material error or

injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. As a result, the Board determined your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. 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,

8/18/2022

