

1989, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation. On 1 August 1990, you were issued your second Page 11 counseling regarding your off duty liberty habits which effected your assigned duties in the █. Specifically, you received numerous traffic violations that resulted in your loss of driving privileges and your inability to perform your assigned duties as a supply driver and your failure to meet the physical fitness standard that were set forth by the Marine Corps. On 6 September 1990, you were convicted by a SCM of failure to obey a lawful order.

Subsequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to minor disciplinary infractions. 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 the recommendation for administrative discharge, and directed your OTH discharge from the Marine Corps. On 31 October 1990, you were discharged from the Marine Corps with an OTH characterization of service by reason of misconduct due to minor disciplinary infractions.

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 documents, your desire to upgrade your discharge character of service and contentions that: 1) you incurred post-traumatic stress disorder (PTSD) from harassment you received from a superior, who threatened to kill you if you did not accept the charge of the court-martial; and 2) your discharge character of service was changed to "Dishonorable" without your knowledge. 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 8 July 2022. The AO noted in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. Post-service, he has received diagnoses of PTSD and other mental health conditions that are temporally remote to his military service and do not appear to be related to his service. While UA could be attributed to avoidance symptoms due to unrecognized symptoms of PTSD, it is difficult to attribute his misconduct to PTSD, particularly given his contention that he was innocent of the charges and coerced into accepting the punishments. 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 diagnosis of PTSD that may be attributed to military service. There is insufficient evidence his misconduct could be attributed to PTSD.”

In response to the AO, you provided a rebuttal statement that supplied additional clarification of the circumstances of your case.

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 two SCM convictions, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of military authority and regulations. The Board also considered the negative impact your conduct likely had on the good order and discipline of your command. Further, the Board found no evidence to substantiate your contentions. Finally, the Board concurred with the AO and determined that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service, and there is insufficient evidence your misconduct could be attributed to PTSD. 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.

With regard to your claim that your characterization of service was changed to “Dishonorable” without your knowledge, the Board found no evidence to support your belief. As previously mentioned, your characterization of service is documented in your record as OTH.

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,

9/12/2022

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Executive Director

Signed by: █