



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. In addition, the Board considered your contention that you incurred PTSD and other mental health concerns during military service, which might have mitigated the circumstances that led to your BCD character of service. The Board also considered your contentions that you suffered from mental health concerns due to your pre-service experiences, which resulted in vulnerability to coercion and misconduct, and you need Department of Veterans Affairs benefits. 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 28 July 2022. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. 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, "it is my considered clinical opinion there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence the circumstances of his separation could be attributed to PTSD or another 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 SPCM conviction, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a lengthy period of UA and a drug offense. Further, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to PTSD or another mental health condition. The Board noted that there is no evidence in your record, and you submitted none, to support your contentions, including that you were suffering from PTSD and other mental health concerns. Additionally, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant a BCD. While the Board commends your post-discharge good character and desire to purchase a home, 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 your case. 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,

9/25/2022

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Executive Director

Signed by: █