



1 November 2002, your battalion surgeon concurred with the medical officer's recommendation for administrative separation by reason of a physical condition not a disability. On 3 December 2002, your commanding officer recommended a General (Under Honorable Conditions) discharge characterization of service by reason of a physical condition not a disability. On 17 December 2002, you were notified of the initiation of administrative separation proceedings by reason of a physical condition not a disability, at which point, you decided to waive your procedural rights. On 9 January 2003, your administrative separation proceedings were determined to be sufficient in law and fact. On 13 January 2003, the discharge authority approved and ordered a General (Under Honorable Conditions) discharge characterization by reason of a physical condition not a disability. On 15 January 2003, 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 were rated by the Department of Veterans Affairs with a service connected disability for adjustment disorder with anxiety and depression, and chronic lumbosacral sprain disability. 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 in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Post-service, the VA has determined service connection for an adjustment disorder. Unfortunately, available records indicate that the Petitioner was separated due to his knee problem, rather than a mental health concern. Unfortunately, his personal statement and provided medical records are lacking sufficient detail to establish a nexus with his 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, "it is my considered clinical opinion there is insufficient evidence of a diagnosis of Post Traumatic Stress Disorder (PTSD) that may be attributed to military service. There is post-service evidence of a mental health condition (adjustment disorder) 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 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 relative brevity of your service. Additionally, the Board concurred with the AO that there is insufficient evidence the circumstances of your separation could be attributed to PTSD or another mental health condition. Therefore, the Board did not find your service connected disability conditions relevant to your assigned characterization of service. Based on these factors, the Board concluded significant

negative aspects of your service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) 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,

10/6/2022

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Executive Director

Signed by: █