



The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge character of service and contention that your “court-martial was not right.” For purposes of clemency consideration, the Board noted you provided a document describing a post-service accomplishment 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 15 August 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.

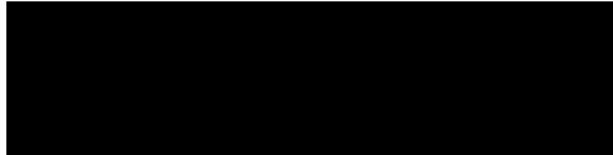
The AO concluded, “it is my considered clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence his misconduct could be attributed to PTSD.”

Based upon this review, the Board concluded that your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your two SPCMs, 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. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your unit. Additionally, the Board noted that you did not provided any evidence, other than your statement, to substantiate your contention. The Board further concluded that the discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your BCD. 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 a BCD. While the Board commends your post-discharge good character and accomplishments, even in light of the Wilkie Memo and reviewing the record holistically, 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,

10/25/2022

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Executive Director

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