



count. On 26 February 1981, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to involvement of discreditable nature with civil authorities. You were given 30 days to appeal your conviction and you decided not to do so. On 19 May 1982, your administrative separation proceedings were determined to be sufficient in law and fact. On 20 May 1982, the separation authority approved an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct. On 7 June 1982, 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 Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire for a discharge upgrade and contention that you were suffering from alcohol abuse and were under the influence when the civilian crime was committed. 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. He has provided no medical evidence in support of his claims, and there is no evidence he was unaware of his misconduct or not responsible for his actions. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct, particularly given pre-service behavior that appears to have continued during military service. 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 clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct could be attributed to a 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 and civil conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the discrediting effect your civilian offense had on the Marine Corps. Additionally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. Ultimately, the Board concluded that your contention that your conduct should be mitigated based on your alcohol abuse was not persuasive. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. 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 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,

10/25/2022

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Executive Director

Signed by: █