

You enlisted in the Marine Corps and began a period of active duty on 17 November 1987. On 16 November 1989, you received non-judicial punishment (NJP) for wrongfully and unlawfully making and uttering checks. On 28 November 1989, you received your second NJP for wrongful use of amphetamine/methamphetamine. On 16 March 1990, you were convicted by a special court-martial (SPCM) of unauthorized absence totaling 67 days, failure to go to your appointed place of duty, and two specifications of wrongful use of amphetamine/methamphetamine. As punishment, you were sentenced to confinement and forfeiture of pay. On 23 April 1990, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct and misconduct due to drug abuse. You were advised of, and elected your procedural right to consult with military counsel; however, you waived your procedural right 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 4 June 1990, you were discharged from the Marine Corps with an OTH characterization of service by reason of misconduct due to drug abuse.

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 before entering the military you did not have the “issues” that you have now, those “issues” are due to the things you have witnessed during your military service, and “those events,” drove you to do the things that you would not have done before. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

As part of the Board’s review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 24 September 2022. The AO noted in pertinent part:

During military service, the Petitioner was evaluated and diagnosed with substance use and alcohol use disorders. There is no evidence that he was diagnosed with another mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of another diagnosable mental health condition. He has provided no medical evidence in support of his claims. Substance use and problematic alcohol use are incompatible with military readiness and discipline and, during service, he demonstrated an awareness of his misconduct and was deemed responsible for his behavior. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms of PTSD or another mental health condition. Additional records (e.g., 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 his misconduct could be attributed to PTSD or another mental health condition, other than his diagnosed alcohol and substance use disorders.”

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your two NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved multiple drug offenses. The Board determined that illegal drug use by a Marine is contrary to Marine Corps core values and policy, renders such Marines unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Further, the Board considered the likely negative effect your misconduct had on the good order and discipline of your unit. Finally, the Board concurred with the AO and determined that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service, and there is insufficient evidence your misconduct could be attributed to PTSD or another mental health condition, other than your diagnosed alcohol and substance use disorders. 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. 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 an upgraded characterization of service as a matter of clemency or equity. 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,

12/1/2022

■
Executive Director
■