



Ref: Signature Date

You enlisted in the Marine Corps and began a period of active duty on 31 July 1979. On 1 February 1980, you received non-judicial punishment (NJP) for wrongful possession of a plastic, metal smoking device and glass, metal and rubber smoking device-boring traces of tetrahydrocannabinol (marijuana). On 24 November 1980, you were counseled concerning your

involvement in drug abuse. You were advised that the use and possession of illicit drugs were violations of the Uniform Code of Military Justice (UCMJ) and could lead to adverse administrative or disciplinary action. On 7 October 1981, you received your second NJP for willful disobedience of a lawful order of a superior noncommissioned officer. On 1 June 1982, you were given a probable cause urinalysis test due to you submitting a false sample by substituting water for your urine. Subsequently, your urine sample tested positive.

On 31 August 1982, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to Misconduct due to frequent involvement with drugs. You were advised of and waived your procedural rights to consult with military counsel and 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 by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 8 October 1982, you were discharged from the Marine Corps with an OTH¹ characterization of service by reason of misconduct due to misconduct due to frequent involvement of a discreditable nature with military authorities.

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 change your discharge character of service and contentions that your superior officer verbally harassed and threatened you, which contributed to the circumstances of your separation. You assert that security personnel physically assaulted you during your removal from the base following your discharge by speeding and slamming on the brakes sending you to slam your body and head against the metal/steel cage. You contend this action resulted in PTSD and TBI. For purposes of clemency and equity consideration, the Board noted you provided supporting documentation describing post-service accomplishments but no 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 23 October 2022. The AO noted in pertinent part:

There is no evidence of a formal mental health diagnosis during military service, or evidence of medical treatment for a head injury or TBI symptoms during military service. There is no evidence that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Post-service, he has provided evidence of a diagnosis of PTSD that has been attributed to military service. There is no post-service evidence of TBI. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct. Additional records (e.g., post-service medical records describing the Petitioner's diagnosis, symptoms, and their specific link to his performance) would aid in rendering an alternate opinion.

¹ The Board noted in your application that you assert that you received an uncharacterized discharge. The Board found no evidence of an uncharacterized entry-level separation.

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

In response to the AO, you provided a personal statement that supplied additional clarification of the circumstances of your case.

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 frequent involvement with controlled substances, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your unit. Furthermore, the Board concurred with the AO and determined that while there is some post-service evidence of a diagnosis of PTSD that may be attributed to military service, there is insufficient evidence of TBI that may be attributed to military service, and there is insufficient evidence that your misconduct could be attributed to TBI or PTSD. As pointed out in the AO, there is no evidence that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. 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. While the Board commends your post-discharge 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 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,

12/27/2022

■

Executive Director

■