



specifications of violating a lawful order and for being in an unauthorized absence (UA) status for two days. Thereafter, you were issued administrative remarks documenting the aforementioned infractions and advising you that future alcohol related incidents will result in strong disciplinary action and/or administrative separation from the Marine Corps. Additional administrative remarks document you were assigned to the remedial physical training (PT) program due to failing the semi-annual physical fitness test (PFT). You subsequently received two additional NJPs, on 27 July 1982 and 31 August 1982, respectively. As a result, you were notified of your pending administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities, at which time you waived your right to consult with military counsel and to have your case heard before an administrative discharge board. On 13 September 1982, a staff judge advocate's review of your case found the proceedings to be sufficient in law and fact. On 14 September 1982, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service for your misconduct. On 24 September 1982, you were so discharged.

The Board carefully weighed 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 and your contentions that: (1) you incurred other mental health conditions (MHC) during military service, (2) after reenlisting and receiving orders to Camp Lejeune co-workers, family and friends noticed a change in your behavior which ultimately led to your discharge, and (3) you believe the Camp Lejeune water contamination may be the nexus to you MHC and misconduct. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

Based on your assertions that you incurred mental health concerns during military service, which might have mitigated the circumstances surrounding your separation from service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO. 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) may aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion there is insufficient evidence of a mental health condition during military service. There is insufficient evidence his misconduct could be attributed to a mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your

NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Additionally, the Board concurred with the AO that there is insufficient evidence of a mental health condition during military service that could be attributed to your misconduct. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member 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 granting you the relief you requested or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In regard to your contention concerning contaminated water at Camp Lejeune, please note that Public Law 112-154, Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, requires the Veterans Administration to provide health care to Veterans with one or more of 15 specified illnesses or conditions. Further, the Board noted you have an Honorable period of service from 12 October 1978 through 15 July 1981. You should contact the nearest office of the Department of Veterans Affairs (VA) concerning your right to apply for benefits or appeal an earlier unfavorable determination.

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 is attached 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,

2/21/2023

