



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 discharge was due to mental health conditions that were undiagnosed during your time in service. For purposes of clemency and equity consideration, the Board noted you provided a letter from a vocational rehabilitation counselor and supporting documentation from the Department of Veterans Affairs (VA) but no supporting documentation describing post-service accomplishments or 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 9 December 2022. The AO noted in pertinent part:

The Petitioner submitted VA rating paperwork that notes he was found service-connected for PTSD. He did not include any supporting documentation that mentions the etiology of this diagnosis. He also submitted a letter from a VA vocational rehabilitation counselor that states that the Petitioner "is an individual with a severe physical, intellectual, or psychological disability which qualifies him..." for consideration to a non-competitive hiring appointment. 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. He has provided no medical evidence in support of his claims and unfortunately, the VA rating paperwork he sent is not sufficiently detailed to provide a nexus between his post-service diagnosis of PTSD and 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 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."

In response to the AO, you provided new supporting documentation from the VA.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your three NJPs outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct, and concluded it showed a complete disregard for military authority and regulations. Additionally, 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. Furthermore, the Board concurred with the AO that there is insufficient evidence of a mental health condition that may be attributed to military service, and there is insufficient evidence that your misconduct could be attributed to a mental health condition. As the AO noted, your submission of supporting documentation is not sufficiently detailed to provide a nexus between your post-service diagnosis of PTSD and your misconduct. The Board concluded you were responsible for your misconduct that formed the

basis for your General (Under Honorable Conditions) characterization of service. The Board also noted, despite your record of misconduct, you were given multiple opportunities to correct your behavior and allowed to continue to the end of your obligated service rather than face administrative separation with the potential for an Other Than Honorable discharge. Therefore, the Board determined you already received a large measure of clemency. As a result, the Board determined significant negative aspects of your active service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. While the Board empathized with your current medical condition, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

2/6/2023

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Executive Director

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