



documents you were diagnosed with alcohol abuse and did not appear to meet the criteria for cannabis abuse or dependency. Further, you were assigned to and outpatient treatment program for alcohol abuse. On 21 April 2004, you completed said program and were issued a continuing care plan. On 30 April 2004, you were convicted by a summary court-martial (SCM) for wrongfully using marijuana. As a result, you were notified of your pending administrative separation by reason of drug abuse, at which time you waived your right to consult with military counsel and to have your case heard before an administrative discharge board. On 4 June 2004, your commanding officer recommended to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization of service. The SA accepted the recommendation and you were discharged on 1 July 2004 with an OTH.

On 20 October 2005, the Naval Discharge Review Board denied your application for a discharge upgrade.

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 and your contentions that: (1) you incurred PTSD and other mental health concerns (depression and anger management) during military service, (2) you were young and made a terrible mistake for which you are ashamed, (3) you have worked hard to be a productive member of society, (4) you know what you did was wrong and you were disciplined for it, (5) you have had no trouble since this incident, and (5) you have started your own business. For purposes of clemency and equity consideration, the Board noted you provided character letters in addition to medical documentation.

Based on your assertions that you incurred PTSD and other mental health concerns during military service, which might have mitigated your discharge characterization of 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:

During military service, the Petitioner was diagnosed with an alcohol use disorder. Problematic alcohol use is incompatible with military readiness and discipline and the Petitioner was aware of his misconduct and deemed responsible for his behavior. There is no evidence that he was diagnosed with another mental health condition in military service. Post-service, he has received a diagnosis of PTSD that is temporally remote to his military service. Unfortunately, available records are not sufficiently detailed to indicate a nexus with his misconduct, as his substance use pre-dated his military service. Additional records (e.g., complete mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may assist in rendering an alternate opinion.

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

In response to the AO, you submitted a statement disputing any alcohol problems during your enlistment.

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 SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted that marijuana use in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Additionally, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to your misconduct. 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. While the Board carefully considered the evidence you submitted in mitigation, 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.

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,

2/10/2023

[REDACTED]