



transferred to Japan for duty but absented yourself without authority from 2 September 1982 through 5 October 1982, which was terminated by your voluntary surrender. You were advised of your rights at summary court-martial (SCM) on 9 November 1982 and received a physical examination, on 23 November 1982, which found that you were fit for confinement for a SCM held that same date.

You again absented yourself without authority from 13 August 1983 until 23 October 1983, which you again terminated with your voluntary surrender. After your return, your command requested assistance with legal services for a special court-martial (SPCM). Subsequently, you requested separation in lieu of trial (SILT) on 10 November 1983. Your separation physical, on 13 November 1983, found you fit to separate. You were discharged under Other Than Honorable (OTH) conditions in lieu of trial on 23 November 1983.

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 to "Honorable" and your contentions that you suffered significant trauma due to having been a victim of armed robbery, you received almost no help in dealing with the trauma you endured during the trial process of your assailants, you were held back in ██████████ and separated from your unit, you were placed on mess duty upon your arrival in ██████████ and you were angry with your treatment and overstayed your authorized leave. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

Because you also contend that post-traumatic stress disorder (PTSD) affected the circumstances of your discharge, the Board also considered the AO. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition during his military service. 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 post-service medical evidence in support of his claims. Although there is evidence of a potential traumatic precipitant in service, his personal statement is not sufficiently detailed to establish clinical symptoms during Navy service or provide a nexus with his misconduct, particularly given in-service statements regarding his desire to leave the military to address personal and family stressors. 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 clinical opinion there is insufficient evidence of a diagnosis of PTSD that may be attributed to Navy service. There is insufficient evidence to attribute his misconduct to PTSD."

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 and SILT request, 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. The Board also noted that the misconduct that

led to your request to be discharged in lieu of trial by court-martial was substantial and, more likely than not, would have resulted in a punitive discharge and extensive punishment at a court-martial. Therefore, the Board determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and likely punitive discharge. Further, although the Board found evidence in support of your traumatic experience, the Board concurred with the AO in regard to the lack of supporting evidence of diagnosis or of the potential onset of the symptoms you contend to have experienced which you believe contributed to your periods of UA. Therefore, the Board agreed that there is insufficient evidence to attribute your misconduct to PTSD. 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.

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,

5/8/2023

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Executive Director

Signed by: █