



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 you incurred anxiety and depression following a fatal shipboard accident, which contributed to your misconduct, you attempted on numerous occasions to obtain mental health treatment but was denied service, and prior to the crash incident you were an outstanding Sailor with a glowing career. For purposes of clemency and equity consideration, the Board noted you provided a news article from the Washington Post and a letter from a civilian health care provider; however, you did not provide 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 15 February 2023. The AO noted 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. Post-service, he has provided evidence of an anxiety disorder that is temporally remote to his military service and appears unrelated. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service, or provide a nexus with his misconduct, given the lapse in time between the shipboard accident and the Petitioner's 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 clinical opinion there is insufficient evidence of a diagnosis of PTSD or another mental health condition may be attributed to military service. There is insufficient evidence his misconduct may be attributed to PTSD or another mental health condition."

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 civilian conviction, four NJPs and SCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and noted it included two drug offenses. 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. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your command. Additionally, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD or another mental health condition may be attributed to military service, and there is

insufficient evidence your misconduct may be attributed to PTSD or another mental health condition. As the AO noted, unfortunately, your personal statement is not sufficiently detailed to establish clinical symptoms in service, or provide a nexus with your misconduct. Furthermore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise not be held accountable for your actions. 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. 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,

5/1/2023

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Executive Director

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