



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 your contentions that during wartime you served your country honorably and, now having PTSD and the “effects of Agent Orange,” there is no reason you do not rate a full Honorable discharge. For purposes of clemency and equity consideration, the Board noted you provided health care documents 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 16 August 2023. The AO noted in pertinent part:

The Petitioner submitted outpatient VA records – the vast majority pertaining to medical conditions. However, there is one note indicating that he had been diagnosed with Mood Disorder NOS [not otherwise specified] in March 2022. There are no further records explaining the rationale for the diagnosis. On his discharge physical from the Navy, it states, “Somewhat depressed or more likely apathetic.” 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. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct, which is also unknown. Additional records (e.g., active duty medical records containing the events described by the Petitioner, administrative records, 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.”

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your unsatisfactory performance and overall trait average (OTA), outweighed these mitigating factors. The Board determined that your conduct scores were insufficient to qualify for a fully Honorable characterization of service. The Board noted that characterization of service is based in part on conduct marks assigned on a periodic basis. At the time of your service, a conduct mark average of 3.0 was required to be considered for a fully Honorable characterization of service; a minimum mark you failed to achieve. Further, 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 explained in the AO, there is no evidence that you were diagnosed with a mental health condition in military service or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Finally, the Board noted that you did not provide any evidence, other than your statement, to substantiate your contention. As a result, the Board concluded significant negative aspects of your active service outweighed the positive and continue to warrant a General

(Under Honorable Conditions) characterization. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and 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 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,

11/6/2023

