



was doing it, you soon were coerced with threats of being exposed as a “sissy or punk, including minimal force to indulge in the use of cocaine to go along with the drinking,” you inquired about the possibility for treatment but never received an answer, within months you were abruptly discharged, you have had to deal with anxiety, depression, PTSD, and uncontrolled hallucinations without any healthcare, and you have no access to VA benefits which frustrates you while you are “swimming in a pool of guilt, depression, PTSD, adjustment disorder and a whole bunch of anxiety.” For purposes of clemency and equity consideration, the Board noted you provided a personal statement on your behalf and 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 3 August 2023. The AO noted in pertinent part:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during an inpatient hospitalization. His alcohol and substance use disorder diagnoses was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. Post-service, he has also received treatment for additional mental health diagnoses that are temporally remote to military service and appear unrelated. There is no evidence of a diagnosis of PTSD. His in-service misconduct appears to be consistent with his substance use disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service, particularly given pre-service substance use that appears to have continued in service. 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 that may be attributed to military service. There is insufficient evidence to attribute his misconduct 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 that your misconduct, as evidenced by your two NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved 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 considered the likely negative effect your misconduct had on the good order and discipline of your command. Further, the Board noted your post-discharge mental health assessment but concurred with the AO that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service, and there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. Your in-service misconduct appears to be consistent with your substance use disorder, rather than evidence of PTSD or another mental health condition that incurred in or exacerbated by military service, particularly given your pre-service substance use that appears to have continued

in service. 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. Finally, the Board noted that you did not provide any evidence, other than your statement, to substantiate your contentions, and 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. 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 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. 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,

10/3/2023

