



involvement in a motor vehicle accident that caused both physical pain, mental anguish and led to you drinking excessively and getting into trouble, (2) you were scared, lived your life in terror and the paranoia of someone out to get you was a daily feeling that decreased your ability to see things as they were, (3) you were young and experienced pressure that you had not felt before, it made you insane and you chose to hide in alcohol and that combination made you make bad choices, and (4) all of your troubles were after your mental trauma that led to your alcohol addiction. For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 5 March 2024. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His alcohol use disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed. Problematic alcohol use is incompatible with military readiness and discipline and does not remove responsibility for behavior. Post-service, the VA has granted service connection for PTSD. Unfortunately, records are not sufficiently detailed to establish a nexus with his misconduct, given his history of problematic alcohol use prior to military service that appears to have continued during military 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 post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition, other than alcohol use disorder."

In response to the AO, you provided a statement that supplied additional clarification of the circumstances of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

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 multiple administrative counselings and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. Further, the Board concurred with the AO that while there is post-service evidence from the Department of Veterans Affairs of a diagnosis of PTSD that may be attributed to military service, there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition, other than alcohol use disorder. As the AO explained, your records are not sufficiently detailed to establish a nexus with your misconduct, given your history of problematic alcohol use prior to military service that appears to have continued during your military service. Therefore, 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. The Board further noted that you were provided multiple opportunities to correct your deficiencies during your service; however, you continued to commit additional misconduct. Your multiple administrative counselings, failure to obey a lawful written order by driving a military vehicle while your military license was suspended, resisting apprehension, operating a motor vehicle while drunk and in a reckless manner, wrongfully appropriate a military vehicle, drunk and disorderly conduct, and failure to go at the time prescribed to your appointed place of duty, not only showed a pattern of misconduct but were sufficiently serious to negatively affect the good order and discipline of your unit. Finally, contrary to your contentions, the Board found your record of misconduct more than sufficient to support your administrative separation for reason of misconduct due to pattern of misconduct and your assigned characterization of service of Other Than Honorable (OTH).

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,

4/24/2024

