

From 25 February 2006 to 20 September 2006, you deployed to █ in support of █.

On 13 February 2008, you did not attend substance abuse screening/counseling at the Substance Abuse Counseling Center (SACC) as requested and did not attend subsequent continuing care (CC) group sessions. Consequently, you were discharged from CC as a treatment failure on 4 March 2008.

On 24 April 2008, you received NJP for four specifications of failure to be at appointed place of duty, four specifications of failure to obey a lawful order, and two specifications of insubordinate conduct to a Corporal by calling him an expletive and asking him if he wanted to fight. Additionally, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 14 May 2008, you were counseled for lack of respect toward your squadron commanding officer. On 15 May 2008, you were evaluated by a military psychiatrist and diagnosed with Major depression, Bipolar disorder, PTSD, and Alcohol Dependence and continued with follow-up care throughout May until mid-June 2008.

On 22 May 2008, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to pattern of misconduct and alcohol rehabilitation failure. You elected to consult with legal counsel and subsequently waived your rights to submit a statement or have your case heard by an administrative discharge board.

On 24 June 2008, you were found guilty at Summary Court Martial (SCM) for UA, breaking restriction, being drunk on duty, and disrespect toward a non-commissioned officer.

You received Page 11 counseling, on 26 June 2008, concerning your rejection of additional substance abuse and PTSD treatment. The Separation Authority directed your discharge with an OTH characterization of service and you were so discharged on 27 Jun 2008.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 20 January 2011, based on their determination that your discharge was proper as issued.

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 characterization of service and your contentions that you suffer from PTSD, you are need of Department of Veterans Affairs (VA) benefits, and you have had post-discharge employment difficulties due to your characterization of service. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

As part of the Board's review process, a qualified mental health professional reviewed your

contentions and the available records and issued an AO dated 4 April 2024. The AO stated in pertinent part:

Petitioner contends he incurred PTSD and other mental health concerns during military service, which may have mitigated the circumstances of his separation.

In July 2005, he received NJP for UA and disobedience for underage drinking. He was diagnosed with Alcohol Dependence. In September 2005, he received NJP for underage drinking and drunk on duty. From September to October 2005, he received intensive outpatient treatment for Alcohol Dependence.

From February to September 2006, he participated in ■■■■■■■■■■.

In February 2008, he requested an alcohol use disorder evaluation, but did not attend his appointment or his Continuing Care (CC) group. In March 2008, he was discharged from CC as a treatment failure for Alcohol Dependence.

In April 2008, he was formally counseled and received NJP for four periods of UA from his place of duty, four specifications of disobedience, belligerence, and disrespect. In May 2008, he was counseled for lack of respect. He was evaluated by a military psychiatrist and diagnosed with Depression Not Otherwise Specified (NOS), with differential diagnosis including Bipolar spectrum illness and Substance-Induced Mood Disorder; PTSD; and Alcohol Dependence.

In June 2008, he was convicted by summary court martial of UA, insubordination, assault, breaking restriction, and drunk and disorderly conduct. He formally declined substance abuse and PTSD treatment. He was counseled for the treatment rejection and discharged under OTH.

Petitioner submitted a May 2008 emergency room evaluation for “anger issues, PTSD (chronic), was UA yesterday...due to be D/C’d [discharged] in 3 weeks.” He submitted evidence of treatment for other pain conditions.

During military service, the Petitioner was diagnosed with PTSD and other mental health concerns, including alcohol use disorder. It is possible to consider his disobedience and disrespect as irritability symptoms associated with PTSD. It is difficult to attribute all of his alcohol use to self-medication of PTSD symptoms, given problematic alcohol behavior prior to his combat deployment.

The AO concluded, “it is my clinical opinion there is in-service evidence of diagnoses of PTSD and other mental health conditions that may be attributed to military service. There is insufficient evidence to attribute all of his misconduct to PTSD or another mental health condition, other than alcohol use disorder.”

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

NJPs and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. Additionally, the Board concurred with the AO and determined that while there is in-service evidence of diagnoses of PTSD and other mental health conditions that may be attributed to military service, there is insufficient evidence to attribute all of your misconduct to PTSD or another mental health condition, given your in-processing and pre-deployment misconduct. As explained in the AO, it is difficult to attribute all of your alcohol use to self-medication of PTSD symptoms, given problematic alcohol behavior prior to your combat deployment. Finally, 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 that your request does not merit relief.

In reviewing your record, the Board noted that the 20 January 2011 NDRB recommended correction of your active-duty entry date (Block 12.a) on your DD Form 214, Certificate of Release or Discharge from Active Duty to reflect 13 December 2004. You may request this correction by attaching a copy of this letter to your request and mailing it to:

Commandant of the Marine Corps
Code MMRP
2008 Elliot Road
Quantico, VA 22134

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,

6/24/2024

