



characterization to Honorable, and your contentions that it has been 40 years since you made your mistakes, that you have continued to face punishment even this long afterward for what you did, that you have been struggling with homelessness, and that you are now trying to turn your life in a new direction. For the purposes of clemency and equity, you provided a legal brief with exhibits, including your records of having received social work care, assistance you've received with homelessness, and your personal statement.

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 16 July 2024. The AO noted in pertinent part:

During military service, the Petitioner was offered assistance with a possible alcohol use disorder on multiple occasions. Problematic alcohol use is incompatible with military readiness and discipline and does not remove responsibility for behavior. There is no evidence that of another mental health condition in military service. He has provided no medical evidence of a mental health diagnosis. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly as larceny is not a typical symptom of a mental health condition. 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 mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct 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 misconduct, as evidenced by your two court-martial convictions and your non-judicial punishment, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved multiple alcohol-related incidents and theft from your fellow Marines. The Board determined that alcohol abuse 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 also found that your conduct showed a complete disregard for military authority and regulations, and a complete lack of care or concerns for your fellow Marines. The Board noted that you were given multiple opportunities to address your conduct issues, including multiple opportunities to receive alcohol counseling, but you failed to take advantage of those opportunities and continued to commit misconduct. The Board also believed that considerable clemency was already extended to you when your Bad Conduct Discharge (BCD) was suspended and ultimately remitted, allowing you the ultimate favor of a General (Under Honorable Conditions) (GEN) characterization of service, rather than a BCD. Lastly, the Board concurred with the AO and determined that problematic alcohol use is incompatible with military readiness and discipline and does not remove responsibility for your behavior, there is insufficient evidence of a mental health condition that may be attributed to military service, and insufficient evidence to attribute your misconduct to a mental health condition. As the AO

noted, there is no evidence that you were diagnosed with a mental health condition while in military service and you have provided no evidence of such a diagnosis. Finally, the Board agreed additional records, as described above, may aid in rendering an alternate opinion.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN discharge. While the Board carefully considered the evidence you submitted in mitigation and sympathizes with your present circumstances, 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.

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,

9/12/2024

