



forfeiture of pay, reduction in rank, and a Bad Conduct Discharge (BCD). Ultimately, the BCD was approved at all levels of review and you were so discharged on 7 April 1983.

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 upgrade your discharge character of service and contention that stressors in service, including marital conflict, contributed to your misconduct. 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 17 June 2024. The AO stated in pertinent part:

During military service, the Petitioner was evaluated but received no formal mental health diagnosis, as only situational adjustment difficulties were noted. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. The provided medical evidence is not sufficient to support his claims. Available records do not establish clinical symptoms in service or provide a nexus with his misconduct. While marital discord can contribute to stress, there is no evidence he was unaware of his actions. 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 your misconduct, as evidenced by your SPCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of military authority and regulations. The Board also considered the negative impact your conduct likely had on the good order and discipline of your command. Further, the Board 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 or your misconduct. As the AO explained, the available records do not establish clinical symptoms in service or provide a nexus with your misconduct. Additionally, throughout your disciplinary processing, you raised no concerns of a mental health condition that would have warranted a referral for evaluation. Therefore, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your BCD. The Board determined that the record clearly reflected that your active-duty misconduct was willful and 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.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD. 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.

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,

8/14/2024

