



14 February 2017, based on their determination that your discharge was proper as issued. On 10 May 2023, you again applied to NDRB for an upgrade of your characterization of service and a change to your narrative reason for separation. The NDRB discerned no impropriety in the discharge action but found an inequity in the characterization of your service. Thus, the NDRB granted you relief in the form of upgrading your characterization of service to General (Under Honorable Conditions) (GEN) and changed your narrative reason for separation to Secretarial Authority with a corresponding separation code of JFF. Your record contains a copy of your updated DD Form 214 that reflects the relief granted by the NDRB. The facts of your case remain substantially unchanged.

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 contentions that: (1) you never expressed to your wife that you would “kill her or her family,” (2) you never were allowed a chance to explain the situation, (3) you were in an unauthorized absence status for 14 days not 21 days, and (4) you were shocked that you were getting “kicked out” without being able to explain yourself. 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 13 June 2024. The AO stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. He has provided no medical records to support his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. Additional records (e.g., in-service or 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, TBI or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD, TBI, or another mental health condition.”

In response to the AO, you provided supporting documentation 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 SILT discharge, 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 noted that the misconduct that led to your SILT request was substantial. Therefore, the Board determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and potential punitive discharge. Further, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD, TBI or another mental health condition that may be attributed to military service, and there is insufficient evidence to attribute your misconduct to PTSD, TBI, or another mental health condition. As the AO explained, the available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with your misconduct. Further, there is no evidence that you were diagnosed with a mental health condition in military service, or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Additionally, you provided no medical records to support your claims. 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. Finally, the Board determined you already received sufficient clemency when the NDRB upgraded your characterization from Other Than Honorable to GEN and changed your narrative reason for separation to Secretarial Authority.

As a result, the Board determined significant negative aspects of your active duty service outweighed the positive and continues to warrant a GEN 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.

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,

9/11/2024

