



accident you began experiencing symptoms of PTSD and depression that greatly affected your ability to make rational decisions, (3) you would only have been reduced in rank if you were not involved in the accident and have PTSD, and (4) you firmly believe that the circumstances that led to your discharge did not accurately reflect your dedication and service to the Marine Corps. For purposes of clemency and equity consideration, the Board considered your statement and 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 16 September 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. Temporally remote to his military service, he has received service connection for a diagnosis of PTSD. Unfortunately, his misconduct occurred prior to his purported trauma, and so there is no ability to establish a nexus between his mental health concerns and his misconduct.

The AO concluded, "it is my clinical opinion that there is post-service evidence from the Department of Veterans Affairs (VA) of a diagnosis of PTSD that may be attributed to military service. There is insufficient to attribute his misconduct to PTSD, TBI, or another 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 non-judicial punishment for the wrongful use of cocaine, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. The Board determined that illegal drug possession 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 considered the likely negative effect your misconduct had on the good order and discipline of your unit. Further, the Board concurred with the AO that, while there is post-service evidence from the VA of a diagnosis of PTSD that may be attributed to military service, there is insufficient to attribute your misconduct to PTSD, TBI, or another mental health condition. As the AO explained, 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. In addition, since your misconduct occurred prior to your purported trauma, there is no ability to establish a nexus between your mental health concerns and your misconduct. Furthermore, the Board determined your VA rating is too temporally remote from 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. Finally, the Board observed that you provided no evidence, other than your statement, that you were mentally incompetent when electing to waive your rights associated with your administrative separation.

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 your statement and 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,

12/2/2024

