**DEPARTMENT OF VETERANS AFFAIRS**  
**VA Regional Office**  
**New Orleans, LA**

**ADMINISTRATIVE DECISION**

**ISSUE**: Character of discharge (COD) for the period of service November 23, 2020 through May 6, 2025**.**

**EVIDENCE**:

* *VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits,* received May 23, 2025.
* Service treatment records received on April 3, 2025, for the period November 23, 2020 through May 6, 2025.
* Service personnel records received on May 27, 2025, for the period November 23, 2020 through May 6, 2025.

**PERTINENT LAWS AND REGULATIONS:**

According to 38 CFR § 3.12(a) - Character of Discharge, if the former service member (FSM) did not die in service, then pension, compensation, or Dependency and Indemnity Compensation is not payable unless the period of service on which the claim is based was terminated by discharge or release under conditions other than dishonorable (38 U.S.C § 101(2) - Definitions).

* 38 CFR § 3.12(d)(1)(i) - Character of Discharge **for a regulatory bar to benefits.** Discharge in lieu of trial. Acceptance of a discharge under other than honorable conditions or its equivalent in lieu of trial by general court-martial.

As stated in 38 CFR § 3.360(a) and (b) -- Service-connected Health-care Eligibility of Certain Persons Administratively Discharged Under Other Than Honorable Condition, the health care and related benefits authorized by Chapter 17 of Title 38 U.S.C. shall be provided to certain former service members with administrative discharges under other than honorable conditions for any disability incurred or aggravated during active military, naval, or air service in line of duty. With certain exceptions such benefits shall be furnished for any disability incurred or aggravated during period of service terminated by a discharge under other than honorable conditions. Specifically, they may not be furnished for any disability incurred or aggravated during a period of service terminated by a bad conduct discharge or when one of the bars listed in 38 CFR § 3.12(c) - Character of Discharge applies.

**DECISION**:

Your discharge from the United States Marine Corp for the period of service from November 26, 2012 through January 25, 2018 is under honorable conditions. Youdo have eligibility to VA benefits.

Your discharge from the United States Army for the period of service from 11/23/2020 to 2/28/2024 is under honorable conditions. Youdo have eligibility to VA benefits.

Your discharge from the United States Army for the period of service from 2/29/2024 to 5/6/2025 is under dishonorable conditions. Youdo not have eligibility to VA benefits.

You **meet**the eligibility criteria in 38 CFR § 3.360 - Service-connected Health-care Eligibility of Certain Persons Administratively Discharged Under Other Than Honorable Condition for health care benefits under 38 U.S. Code Chapter 17 for the period of service from 11/23/2020 to 2/28/2024.

You **do not** **meet**the eligibility criteria in 38 CFR § 3.360 - Service-connected Health-care Eligibility of Certain Persons Administratively Discharged Under Other Than Honorable Condition for health care benefits under 38 U.S. Code Chapter 17 for the period of service from 2/29/2024 to 5/6/2025.

**REASONS AND BASES**:

Insanity is not an issue.

You accepted an **OTH** discharge to escape trial by a general court-martial. In which you were facing charges for the following violations of the UCMJ:

Article 128 – Assault of an Officer on or about 08/22/2024

Article 115 – Threatening to injure an Officer on or about 08/22/2024

Article 90 – Willfully disobeying a superior Officer on or about 08/22/2024

Based on the evidence listed and discussed above, we conclude that the conduct for which you were discharged from service, and upon which your service characterization was based, is a bar to benefits under 38 CFR 3.12(d)(1)(i) Discharge in lieu of trial. Acceptance of a discharge under other than honorable conditions or its equivalent in lieu of trial by general court-martial. Therefore, eligibility to VA benefits is not established for the service period of 2/29/2024 to 5/6/2025.

**FAVORABLE FINDINGS:**

Your discharge from the United States Marine Corp for the period of service from November 26, 2012 through January 25, 2018 and 11/23/2020 to 2/28/2024 is under honorable conditions. Youdo have eligibility to VA benefits for aforementioned timeframe.