



your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. Prior to the SA's decision, on 14 July 1989, you received your second NJP for communicating a threat. Ultimately, the SA approved the CO's recommendation for administrative discharge and directed your OTH discharge from the Navy. On 4 August 1989, you were discharged from the Navy with an OTH characterization of service by reason of misconduct due to commission of a serious offense.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge character of service and contentions that: (1) you were unaware that your female companion was underage; (2) you did not understand the impact that your discharge character of service would have on your life as a young man; and (3) since that "one" mistake you have not made any other drastic life altering mistakes. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 2 June 2022. The AO noted in pertinent part:

There is no evidence that he was diagnosed with a mental health condition during military service. Throughout his disciplinary actions, counselings, and administrative processing, there were no concerns noted which would have warranted referral to mental health resources. Although he claimed harassment, he did not provide a timeline of his purported trauma, describe symptoms which would meet the criteria for a mental health condition, or indicate how those symptoms interfered with his ability to function. Unfortunately, the dearth information made it difficult to establish an onset and development of mental health symptoms or identify a nexus with his in-service misconduct. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, "[b]ased on the available evidence, it is my clinical opinion that there is insufficient evidence of a mental health condition that could be attributed to military service. There is insufficient evidence that his misconduct could be attributed to a mental health condition."

Based upon this 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 NJPs and SPCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included two sexual offenses. The Board also considered the negative impact your conduct likely had on the good order and discipline of your command. Additionally, the Board concurred with the AO that there is insufficient evidence of a mental health condition that could be

attributed to military service or that your misconduct could be attributed to a mental health condition. The Board concluded the record clearly reflected that your active duty misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also 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. As a result, the Board determined your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances, the Board determined 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,

8/18/2022

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Executive Director

Signed by: █