



authority directed that you be discharged with an OTH characterization of service and, on 29 January 1990, you were so discharged.

The Board carefully considered all potentially mitigating factors in your current petition to determine whether the interests of justice warrant relief in your case including in accordance with the Kurta Memo, the Hagel Memo, and the Wilkie Memo. These included, but were not limited to, your desire for a discharge upgrade and disability benefits. You contend that you had undiagnosed mental health conditions while you were on active duty, which mitigated your misconduct. You further explain that you have been diagnosed with bipolar disorder post-service. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

In connection with your assertion that you suffered from a mental health condition, the Board requested, and reviewed, the AO, which was considered unfavorable to your request. The AO reviewed your service record as well as your petition and the matters that you submitted, and found as follows:

There is no evidence that he was diagnosed with a mental health condition in military service, although he was evaluated prior to separation. Post service, he has provided evidence of a mental health condition that is temporally remote to military service and appears unrelated. While it is possible the Petitioner could have been suffering from unrecognized symptoms of an anxiety disorder, it is difficult to attribute his misconduct to a potential mental health condition, given his statements in service regarding family stressors and the nature of his misbehavior, which is not clearly identifiable as symptomatic of an anxiety disorder. 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, "it is my considered clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct could be attributed to a mental health condition."

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative effect it had on the good order and discipline of your command. Additionally, with respect to your contention relating to a mental health condition, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. The Board observed there was an absence of medical evidence contemporaneous to your time on active duty supporting your assertions. The materials you provided were remote in time to your active duty service. Your service record reflects that your discharge was the result of misconduct, which persisted despite a written warning about the consequences of further misconduct. As a result, the Board concluded 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. Further, based on your misconduct that resulted in an OTH characterization, the Board found you were not eligible for disability benefits and appropriately processed and discharged for 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 the 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,

9/17/2022

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Executive Director

Signed by: █