

entry as evidence by your failure to disclose your preservice civil involvement. You were advised that any further deficiencies in your performance and/or conduct may result in processing for administrative separation. On 29 January 1991, you were diagnosed with an adjustment disorder with depressed mood and personality disorder—not otherwise specified. On 15 April 1991, you commenced a period of unauthorized absence (UA). On 24 April 1991, after several attempts to contact you during your period of UA, and your stated desire not to return to your command, you were declared a deserter. On 3 June 1991, you were apprehended by civilian authorities and returned to military authorities on 4 June 1991. On 2 August 1991, you were convicted by a special court-martial (SPCM) of desertion from 15 April 1991 to 3 June 1991, totaling 49 days, and UA totaling three days. As punishment, you were sentenced to confinement, forfeiture of pay, and reduction in rank. On 13 August 1991, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense. You were advised of, and waived your procedural rights to consult with military counsel and to present your case to an administrative discharge board (ADB). Your commanding officer then forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. The Chief of Naval Personnel recommended to the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) that you be discharged from the Navy with an OTH characterization of service. The ASN (M&RA) approved the recommendation for your administrative discharge from the Navy, and on 2 December 1991, you were discharged from the Navy with an OTH characterization of service by reason of misconduct due to commission of a serious offense.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 8 April 2004 (decision letter dated 21 April 2004), based on their determination that your discharge was proper as issued.

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 change your discharge character of service and contention that you suffered from mental health conditions while in service which mitigated the circumstances of your discharge. You assert that had your condition been properly diagnosed during your service period, your journey to recovery could have started sooner; you could have used the many professionals at the Navy's disposal to get to the root of the issues that you had. For purposes of clemency and equity 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 13 October 2022. The AO noted in pertinent part:

There is evidence that he was diagnosed with mental health conditions while in service, however it appears that his diagnoses were in fact due to his situational stressors and misconduct. His post-service evidence of mental health conditions appear to follow a lengthy and pervasive cocaine addiction with associated stressors thereof. Unfortunately,

his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct.

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.”

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 SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct. 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 may be attributed to military service, and there is insufficient evidence that your misconduct could be attributed to a mental health condition. Finally, 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. 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. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. 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,

12/6/2022

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Executive Director
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