

On 7 August 1979, you were notified of your pending administrative separation by reason of misconduct, at which time you elected your right to consult with military counsel and waived your right to have your case heard before an administrative discharge board. On 24 September 1979, your Commanding Officer (CO) recommended you be discharged with an Other Than Honorable (OTH) characterization of service. However, in October 1979, the Separation Authority directed you be discharged with a characterization of service warranted by your service record. On 17 October 1979, you were discharged with a General (Under Honorable Conditions) (GEN) characterization of service.

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 upgrade your discharge and your contentions that: (1) you incurred mental health concerns during military service, (2) while on liberty in █ a person you were with stole a ring but you were unaware of this yet no one believed you, (3) you received NJP for this infraction and were discharged, (4) it was a bad time and you were getting divorced and, (5) you were told you discharge characterization of service would be GEN. For purposes of clemency and equity consideration, the Board noted you provided a personal statement but no supporting documentation describing post-service accomplishments or advocacy letters.

Based on your assertions that you incurred mental health concerns (MHC) during military service, which might have mitigated your discharge characterization of service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with the AO. The AO stated in pertinent part:

The Petitioner contends that he suffered from mental health conditions during service which mitigated the circumstances of his discharge. Specifically, he notes that he was experiencing significant stress in his marriage which resulted in misconduct. In July 1978, the Petitioner was evaluated for alcohol abuse and started on Antabuse. In July 1979, he was transported to the ER after having overdosed on "30-40 pills of Tylenol," as a suicide gesture. Medical notes from ER indicate "past history of alcohol abuse 1.5 years and is taking Antabuse...personal problems with wife." Psychiatrist evaluated Petitioner during ER stay and noted, "Situation problems with a possible failing marriage. Has not seen his wife in 2 years. Suicidal gesture r/o (rule out) Personality Disorder." Psychiatric note dates September 1979 indicates, "20-year-old male who manifests several immature traits but these are not of sufficient magnitude to warrant a diagnosis of Personality Disorder. Recommend Command processing on the basis of performance."

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. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. It is likely that he was experiencing situational stress in regards to his marriage, however his personal stressors were unlikely to be the sole cause of his

misconduct given the extent and pervasiveness of his infractions. 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 aside from alcohol use disorder. There is insufficient evidence that his misconduct could be attributed to a mental health condition."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your seven NJPs and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Additionally, character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluation. Your military behavior average was 2.8. A military behavior average of 3.0 was required at the time of your separation for a fully Honorable characterization of service. Further, the Board concurred with the AO that there is insufficient evidence of a diagnosis of a mental health condition that may be attributed to your military service or your misconduct. As a result, the Board concluded significant negative aspects of your active service outweigh the positive aspects and continues to warrant a GEN 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 granting you the relief you requested or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Based on your application, in which you stated your belief that you received an OTH characterization of service, the Board felt it was worth reemphasizing the fact that you were discharged with a GEN characterization of service. This characterization is reflected in Box 24 of your DD Form 214.

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 is attached 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,

2/1/2023

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Executive Director
Signed by: █