



1994, you reenlisted and completed this enlistment, on 22 January 1998, with an Honorable characterization of service. On 23 January 1998, you reenlisted and completed this enlistment honorably, on 19 September 2000, and immediately reenlisted. On 28 February 2003, you were evaluated and diagnosed with an adjustment disorder. On 17 May 2003, you submitted a written request for separation in lieu of trial (SILT) by court-martial for missing movement. Prior to submitting this request, you conferred with a military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, you admitted your guilt to the foregoing offense and acknowledged that your characterization of service upon discharge would be Other Than Honorable (OTH) conditions. The separation authority approved your request and directed your commanding officer to discharge you with an OTH characterization of service. On 12 June 2003, you were discharged from the Navy with an OTH characterization of service by reason of separation in lieu of trial by court-martial.

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 contentions that not all of the facts were considered when you were discharged and you requested a trial of your peers, but it was not done. For purposes of clemency and equity consideration, the Board noted you provided documentation from the Department of Veterans Affairs but no 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 20 February 2023. The AO noted in pertinent part:

The Petitioner submitted VA rating letter indicating 30% service-connection for Major Depressive Disorder. She was diagnosed with an Adjustment Disorder after missing ship's movement. An Adjustment Disorder is considered temporary and expected to resolve once situational/environmental stressors subside. It is possible that she was exhibiting symptoms of an adjustment disorder as a result of her misconduct. Unfortunately, her personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with her misconduct. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to her 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 her 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 SILT request, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and noted that the misconduct that led to your SILT request was likely substantial and, more likely than not, would have resulted in a punitive discharge and

extensive punishment at a court-martial. Therefore, the Board determined that you already received a large measure of clemency when the Convening Authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and likely punitive discharge. Further, the Board concurred with the AO and determined 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. As the AO noted, your personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with your misconduct. 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 concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Wilkie Memo and reviewing the record liberally and 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 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,

5/17/2023

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Deputy Director

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