



provided recommendations for corrective action, and advised that failure to take corrective action may result in administrative separation or limitation of further service. On 15 August 1997, you received non-judicial punishment (NJP) for two specifications of absence from your appointed place of duty. On 10 October 1997, you received a second NJP for three specifications of absence from your appointed place of duty.

On 22 October 1997, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct. You elected your procedural right to consult with military counsel. After consulting with counsel, you waived your right to present your case to an administrative discharge board; however, you elected to submit a rebuttal statement to your proposed administrative separation. The commanding officer (CO) forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. As part of the CO's recommendation, the CO stated in pertinent part:

This Marine has been given every opportunity to both work through his problems and correct his deficiencies. To date, this Marine has been the subject of two separated non-judicial punishment proceedings. Since his last NJP on 10 October 1997, he has broken restriction twice within the first six days of being on restriction. I recommend that this Marine's package be expedited to alleviate any further burden this Marine has on this command.

The SA approved the recommendation for administrative discharge, and directed your OTH discharge from the Marine Corps by reason of misconduct due to pattern of misconduct. On 14 November 1997, you were so discharged.

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 character of service to Honorable or "Hardship." The Board considered your contentions that you were not given adequate time to take care of your mother whom was diagnosed with cancer and, with the stress of the household bills and the harassment you received from your peers, along with your mother being sick, you felt an administrative separation from the Marine Corps was in your best interest. However, you never expected to receive an OTH discharge since you were a squared away Marine before everything happened. Being a 19-year-old young man, you had a lot to deal with and you was the backbone of your family. For purposes of clemency and equity consideration, the Board noted you provided a personal statement on your behalf but no 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 17 October 2023. The AO noted in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service. There is evidence that he experienced personal and professional stressors, but available records are not sufficiently detailed to establish clinical

symptoms in service or provide a nexus with his misconduct. He has provided no medical evidence in support of his claims. Limited available medical records are temporally remote and appear unrelated to military service. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct 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 administrative counseling and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. Further, 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 to attribute your misconduct to a mental health condition. As the AO explained, there is evidence that you experienced personal and professional stressors. However, the available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with your misconduct and there is no evidence that you were diagnosed with a mental health condition in military service. Therefore, 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. Additionally, contrary to your contention, the Board found your record of misconduct more than sufficient to support your administrative separation and assigned characterization of service. The Board noted your administrative counseling and multiple NJPs not only showed a pattern of misconduct but documented conduct that was sufficiently serious to negatively affect the good order and discipline of your unit. 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. Even in light of the Kurta, Hagel, and Wilkie Memos 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,

12/13/2023

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