



On 20 April 1985, you signed a statement of understanding outlining the same requirements for satisfactory drill participation and consequences of unsatisfactory participation.

Your record of Naval Reserve service indicates that your first Anniversary Year (AY), from 29 August 1984 to 28 August 1985, which included your active duty for training time, was satisfactory. Your second AY, 29 August 1985 to 28 August 1986 was not satisfactory due to insufficient drills and insufficient ACDUTRA. As a result, you were issued orders to active duty on 22 August 1987 which you did not execute. You remained a drilling reservist at your unit, and your third AY, from 28 August 1986 to 28 August 1987, was also unsatisfactory. While completed ninety-one percent of required drills, you completed none of the required fourteen days of ACDUTRA.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on your Record of Discharge from the U.S. Naval Reserve, you were separated on 23 November 1987 with an “Under Other Than Honorable Conditions (OTH)” characterization of service. Administrative remarks (NAVPERS 1070/613) in your Service Record indicate you were discharged with an OTH by reason of Unsatisfactory Participation in the Naval Reserve per Navy Military Personnel Command letter of 17 November 1987 and that you were issued an Undesirable/Other Than Honorable discharge certificate (DD Form 794N).

You previously applied to this Board for a change to your characterization of service on three occasions. In your first request, you contended that your absences were excused, you were unaware of any unexcused absences, and that your commanding officer (CO) would not hear your case. The Board denied your request on 10 September 2019. In your second request, you contended that your CO was abusive, that your CO told you that you did not have to attend drills, that you told your CO that you were going through a divorce and had other family problems and he said he didn’t care, and that your employer would write you up for going to drill, but that you were excused to play for a travelling softball team and made up the missed drills. The Board denied your request on 7 October 2020. In your third request, you contended that your conduct did not warrant an OTH because it did not involve drugs, assaults, security violations, or trouble with civil authorities, and that your CO was toxic and you had been excused from your missed drills and allowed to make them up. The Board denied your request on 30 June 2021.

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 characterization of service and your contentions you are being treated for anxiety, depression, and Post Traumatic Stress Disorder (PTSD), that your CO did not like you and was emotionally, mentally, and verbally abusive, that your CO marked out drills you attended and told you to miss others, and that your discharge was unjust because you were not involved in a crime, security issues, substance abuse, etc. For purposes of clemency and equity consideration, the Board

noted you provided a letter from your mental health provider but no documentation describing post-service accomplishments.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO dated 22 November 2023. The AO stated in pertinent part:

This opinion only addresses the mental health claims of the petition. I have reviewed the petition(s) and all available military service and medical records.

Petitioner contended she was wrongfully discharged from the Navy by a Commanding Officer who did not like her and falsely marked her absent for drills she attended.

She provided a February 2023 letter from a civilian mental health provider who stated that based on "one on one therapy for the last several months, it is evident that she has been emotionally impacted by her military discharge...[after] she experienced verbal and emotional abuse from her commanding officer... This was very difficult for her as a result of her previous childhood trauma and abuse, with associated PTSD.

There is no evidence that she was diagnosed with a mental health condition in military service, or that she exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Her medical evidence is temporally remote to her military service, and her diagnosis of PTSD is attributed to pre-service traumatic precipitants that were exacerbated by in-service mistreatment.

Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with her misconduct, particularly given her denial of the misconduct.

The AO concluded, "it is my clinical opinion there is post-service evidence from a mental health provider of a diagnosis of PTSD that may be attributed to military service in part. There is insufficient evidence to attribute her misconduct to PTSD or another 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 failure to satisfactorily participate in required drills and ACDUTRA, outweighed these mitigating factors. In making this finding, the Board considered the likely negative impact your repeated misconduct had on the good order and discipline of your unit. The Board also noted you provided no evidence, other than your personal statement, to substantiate your contentions that you were excused from your missed drills, that you made-up those missed drills as required, or that your CO was abusive.

Additionally, the Board considered the AO and discussed that, while there is post-service evidence from a mental health provider of a diagnosis of PTSD, your diagnosis of PTSD is

attributed to pre-service traumatic precipitants that were exacerbated by alleged in-service mistreatment that has not been substantiated. Additionally, the Board agreed that there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition, particularly given your denial of the misconduct.

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 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your 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 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,

2/8/2024

