



Your offenses were drunk and disorderly conduct onboard ship, three periods of unauthorized absence (UA), and two specifications of incapacitation for the proper performance of duties.

On 19 April 1985, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to pattern of misconduct. You waived your procedural right to consult with military counsel and to present your case to an administrative discharge board. The commanding officer forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation for administrative discharge and directed your OTH discharge from the Navy by reason of misconduct due to pattern of misconduct. On 10 May 1985, 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 change your discharge character of service to General (Under Honorable Conditions) so that you may seek assistance for your condition which originated in the Navy. The Board considered your contentions that: (1) you did not consume alcohol prior to your enlistment in the Navy but became a heavy drinker while serving in the Navy, (2) you were diagnosed by Alcohol Recovery Services (ARS) with substance use disorder, (3) following your diagnosis at ARS, you received minimum follow up treatment and your addiction spiraled downward, (4) you suffered a traumatic brain injury (TBI) while serving onboard a naval vessel when your head hit a bulkhead, (5) you were discharged after your "third NJP" action and all of which was exacerbated by a direct connection to your substance use disorder, and (6) you still suffer from the symptomology, and you are seeking Department of Veterans Affairs assistance with your chronic medical condition. 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 7 November 2023. The AO noted in pertinent part:

There is in-service evidence of treatment for a head injury that appears to be related to alcohol use, with no evidence of residual symptoms requiring additional medical follow-up. There is in-service evidence of alcohol use disorder, for which the Petitioner received treatment, and to which his on-going misconduct could be attributed. The Petitioner has provided no post-service medical evidence in support of his claims. Additional records (e.g., post-service mental health records describing the Petitioner's diagnoses, symptoms, and their specific link to his separation) may aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion there is in-service evidence of a head injury. There is insufficient evidence of residual TBI symptoms over time. There is insufficient evidence of a mental health condition, other than alcohol use disorder. There is insufficient evidence to attribute his misconduct (to) TBI or another mental health condition, other than alcohol use disorder."

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 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, while there is in-service evidence of a head injury, there is insufficient evidence of residual TBI symptoms over time and there is insufficient evidence of a mental health condition. As explained in the AO, other than alcohol use disorder, and there is insufficient evidence to attribute your misconduct to TBI or another mental health condition, other than alcohol use disorder. 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. Furthermore, contrary to your contentions, the Board found your record of misconduct more than sufficient to support your administrative separation and assigned characterization of service. The Board noted that you were provided multiple opportunities to correct your deficiencies during your service; however, you continued to commit additional misconduct. Moreover, the Board noted that destruction of government property, drunk and disorderly conduct, multiple periods of UA, and being incapacitated for the proper performance of your duties not only showed a pattern of misconduct but also sufficiently serious to negatively affect the good order and discipline of your command. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities. 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 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,

1/22/2024

