



On 23 February 1982, you commenced a period of unauthorized absence (UA) that concluded upon your return to military authorities on 25 February 1982, a period totaling two days. On 26 February 1982, you received non-judicial punishment (NJP). On 4 March 1982, you commenced a second period of UA that concluded upon your return to military authorities on 8 March 1982, a period totaling four days. On 12 March 1982, you received your second NJP. On 6 May 1982, you commenced a third period of UA that concluded upon your return to military authorities on 14 May 1982, a period totaling eight days. On 14 May 1982, you received your third NJP. On 25 May 1982, you were issued a Page 11 counseling concerning your frequent involvement of a discreditable nature with military authorities you were advised that any further involvement with military authorities could result in your administrative separation processing for a discharge Under Other Than Honorable Conditions (OTH).

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file. 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 Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated from the Marine Corps on 3 August 1982, with a “General (Under Honorable Conditions) (GEN)” characterization of service, your narrative reason for separation is “Substandard Performance,” your reentry code is “RE-4,” and your separation code is “GHK1.” Your final conduct average was 3.4.

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 Honorable and contentions that: (1) you took the military very seriously and never received a bad or negative counseling statement nor an Article 15 before your brother’s death, (2) after the death of your brother you began drinking heavily and started abusing drugs to numb the pain of what you were feeling; it helped you sleep and deal with the constant nightmares and guilt of losing your brother, and (3) you requested help and spoke with a counselor about what you were going through, but very little help was given to you and what you received was a discharge. You assert that a discharge upgrade is very important to you because you feel that you did not received the proper help that you needed during your time of great loss from your leaders or the Marine Corps. For purposes of clemency and equity consideration, the Board noted you provided a personal statement.

As part of the Board’s review, a qualified mental health professional reviewed your request and provided the Board with an AO on 2 November 2023. The AO noted in pertinent part:

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 to support his claims. Unfortunately, available records are not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct. 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 NJPs and multiple administrative counselings, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. The Board also considered the likely negative impact your conduct had on the good order and discipline of your unit. Further, the Board noted that your conduct scores were insufficient to qualify for a fully Honorable characterization of service. At the time of service, a conduct mark average of 4.0 was required to be considered for a fully Honorable characterization of service; a minimum mark you failed to achieve due to your record of misconduct. Furthermore, 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, 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 or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. 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. Finally, the Board noted that you did not provide any evidence, other than your statement, to substantiate your contentions. As a result, the Board determined significant negative aspects of your active service outweighed the positive aspects and continues to warrant a GEN 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 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,

1/16/2024

