



22 October 1992, you received non-judicial punishment (NJP) for wrongfully consuming alcoholic beverages while underage. On 29 October 1992, you were issued a Page 13 counseling formally counseling you concerning deficiencies in your performance and conduct. On 10 August 1993, you received a second NJP for two specifications of unauthorized absence (UA) and false official statement. On 6 December 1993, you received a third NJP for drunk and disorderly conduct.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to pattern of misconduct. You elected your procedural right to consult with military counsel and to present your case to an administrative discharge board (ADB). On 8 February 1994, an ADB was convened and determined that the preponderance of the evidence supported a finding of misconduct and recommended that you be separated from the Navy with a General (Under Honorable Conditions) (GEN) characterization of service. The commanding officer (CO) concurred with the ADBs recommendation. The separation authority approved the recommendation for administrative discharge and directed your GEN discharge from the Navy by reason of misconduct due to pattern of misconduct with an assigned separation code of GKA, which corresponds to misconduct due to pattern of misconduct. On 18 April 1994, 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 so that you will be eligible for “benefits.” You contend that you incurred PTSD after sustaining a stabbing injury while on liberty, personal stressors contributed to your mental health concerns and misconduct, and you were not aware that your discharge characterization would prevent you from using your Department of Veterans Affairs benefits. For purposes of clemency and equity consideration, the Board noted you provided a personal statement and documents from your service record 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 15 December 2023. The AO noted in pertinent part:

Petitioner was diagnosed with alcohol use disorder during military service. This diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed. Unfortunately, he has provided no medical evidence to support his claims. His in-service misconduct appears to be consistent with alcohol use disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service. His problematic alcohol use preceded the stabbing and appears to have continued afterwards. 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 diagnosis of PTSD or another mental health condition that may be attributed to military service. There is

insufficient evidence to attribute his misconduct to PTSD 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 multiple administrative counselings and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the negative impact your conduct likely had on the good order and discipline of your command. Further, the Board concurred with the AO that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service, and there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition, other than alcohol use disorder. As the AO explained, you have provided no medical evidence to support your claims and your in-service misconduct appears to be consistent with alcohol use disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by 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. Further, the Board noted that you did not provide any evidence, other than your statement, to substantiate your contentions. 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 determined significant negative aspects of your active-duty service outweighed the positive and continues to warrant a GEN characterization. In addition, the Board determined your basis for separation and assigned separation code remain appropriate. 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,

2/26/2024

