



From 26 February 1987 to 5 March 1987, you were treated at the Psychiatric Clinic at the Naval Hospital following release from a civilian hospital. You were diagnosed with an accidental overdose (not in the line of duty) and histrionic traits. You were found fit for full duty.

On 17 April 1987, you received non-judicial punishment (NJP) for unauthorized absence (UA) and failure to obey a lawful order. Additionally, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 24 April 1987, you received another mental health evaluation where you disclosed a history of “amnesic (blackout) events.” You were found to have no mental health disorder, however “some histrionic traits” were noted.

On 13 January 1988, you commenced a period of UA that ended in your surrender and return to your command on 2 November 1988. On 1 December 1988, you commenced another period of UA, during which you were declared a deserter, that ended in your apprehension on 8 July 1989.

On 23 August 1989, you were convicted at Special Court-Martial (SPCM) of two specifications of UA totaling over five hundred days and sentenced to reduction in rank to E-1, confinement for ninety days, and a Bad Conduct Discharge (BCD). You subsequently waived your Clemency and Appellate review rights and, on 23 February 1990, you were discharged with a BCD.

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 that you were “triggered” and your “fight or flight response kicked in,” you tried to commit suicide with an overdose of sleeping pills, and you have had a long history of PTSD and have been in treatment since 2013. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 15 February 2023. The AO stated in pertinent part:

In February 1987, he was referred for a mental health evaluation following a “suicide gesture with overdose of over the counter sleeping tablets.” He was hospitalized for seven days, following which he was released with the diagnoses of Accidental Drug Overdose and Histrionic Traits. He received a neurological evaluation, which was unremarkable.

Petitioner contended that he received mental health treatment for a suicide attempt during military service. He submitted a May 2023 letter from his civilian mental health counselor, verifying treatment since January 2017 for Major Depressive

Disorder, Recurrent episode with Psychotic Features (296.34/F33.3) and PTSD (309.81/F43.10).

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated on two occasions, including during an inpatient hospitalization. His lack of formal mental health diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed. Petitioner has provided post-service evidence of treatment for PTSD and another mental health condition that is temporally remote to his military service and appears unrelated. His in-service misconduct appears to be consistent with characterological features, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by 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 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."

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 NJP and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated and extended misconduct had on the good order and discipline of your command. The Board noted that you were given the opportunity to address your conduct issues, but you continued to commit misconduct. Additionally, the Board concurred with the AO and determined 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. As explained in the AO, your in-service misconduct appears to be consistent with characterological features, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD 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,

2/26/2024

