



character and behavior which is of such severity to render this individual incapable of serving adequately in the Navy. Although not considered imminently homicidal or suicidal, the member is judged to be a continuing risk to do harm to himself or others particularly if retained in the naval service. This member is deemed fit to return to duty for immediate processing for administrative separation, which should be initiated expeditiously.

On 6 May 1996, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense and convenience of the government due to personality disorder. You elected your procedural right to consult with military counsel and to present your case to an administrative discharge board (ADB). On 29 May 1996, an ADB was convened and determined that the preponderance of the evidence supported a finding of misconduct and that you have a personality disorder. The ADB recommended that you be separated from the Navy with a General (Under Honorable Conditions) (GEN) characterization of service. The separation authority approved the recommendation for administrative discharge and directed your GEN discharge from the Navy by reason of misconduct. On 17 June 1996, 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 to Honorable and contention that you witnessed the suicide of a shipmate, which contributed to your mental health concerns and misconduct, and you stole a weapon from the armory for the purpose of committing suicide. For purposes of clemency and equity consideration, the Board noted you provided health care 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 31 January 2024. The AO noted in pertinent part:

During military service, Petitioner was evaluated and diagnosed with a personality disorder. There is insufficient evidence of a diagnosis of PTSD. Post-service, the VA has granted service connection for another mental health condition. It is possible that symptoms identified as characterological in service have been reconceptualized as bipolar disorder with the passage of time and increased understanding. Unfortunately, available records are not sufficiently detailed to 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 post-service evidence from the VA of a mental health condition that may be attributed to military service. There is insufficient evidence of a diagnosis of PTSD. 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, 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 while there is post-service evidence from the VA of a mental health condition that may be attributed to military service, there is insufficient evidence of a diagnosis of PTSD 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 provide a nexus with your misconduct. 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.

As a result, the Board determined significant negative aspects of your active-duty service outweighed the positive and continues to warrant a GEN 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,

4/3/2024

