



On 18 September 1996, you received NJP for UA from your appointed place of duty. You received another Page 11 counseling concerning deficiencies in your performance and conduct and were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 25 November 1996, you were found guilty at Summary Court Martial (SCM) of three specifications of UA from appointed place of duty.

Consequently, on 3 January 1997, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to minor disciplinary infractions. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board (ADB). The Separation Authority subsequently directed your discharge with an OTH characterization of service, and you were so discharged on 20 February 1997.

You previously applied to this Board for an upgrade to your characterization of service where you contended that your discharge should be upgraded. The Board denied your request on 28 October 2015.

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 suffered from PTSD due to hazing. For purposes of clemency and equity consideration, the Board considered your statement, the advocacy letters from your family, and post-service accomplishment documentation you provided.

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 2 April 2024. The AO stated in pertinent part:

Petitioner contends he incurred mental health concerns (PTSD) during military service, which might have mitigated his discharge characterization of service.

His described trauma in his personal statement does not meet criteria for PTSD as per DSMV (Diagnostic and Statistical Manual of Mental Disorders, 5th ed). Furthermore, he did not mention having experienced any trauma in his previous 2014 petition. There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition.

He did not submit any medical evidence in support of his claim. His personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct.

The AO concluded, “it is my considered clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence that his misconduct could be attributed 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 SCM, outweighed these mitigating factors. In making this finding, the Board also considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. Further, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition that may be attributed to military service and insufficient evidence that your misconduct could be attributed to a mental health condition. As explained in the AO, you did not submit any medical evidence in support your claim. Finally, the Board noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct, which ultimately led to your separation.

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 and commends your post-discharge accomplishments, 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,

6/10/2024

