

You enlisted in the Navy and began a period of active duty on 18 July 1987. On 16 July 1990, you received non-judicial punishment (NJP) for unauthorized absence, a period totaling six days. On 18 December 1990, you received a second NJP for unauthorized absence (UA), a period totaling three days. On 21 December 1990, you were issued an administrative remarks (Page 13) retention warning formally counseling you concerning deficiencies in your unsatisfactory conduct. The Page 13 expressly warned you that any further deficiencies in your conduct may result in disciplinary action and in processing for administrative separation. On 23 January 1991, you were evaluated and diagnosed with situational alcohol abuse. On 12 March 1991, you received a third NJP for two specifications of UA, totaling 18 days.

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 waived your right to consult with military counsel and to present your case to an administrative discharge board. Prior to the commanding's officer (CO) recommendation, on 27 March 1991, you were evaluated and diagnosed with alcohol dependence. You were offered and declined treatment for alcohol use disorder. The CO forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation for administrative discharge and directed your OTH discharge from the Navy by reason of misconduct due to pattern of misconduct. On 13 May 1991, you were so discharged.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 12 August 1996, based on their determination that your discharge was proper as issued.

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 contentions that: (1) you have had mood swings with out-of-control rage since you were an adolescent, (2) you had anger management problems while you were aboard your ship, and (3) you received harassment from your Division Officer, who threatened to kick you out of the Navy if you did not volunteer to leave the military. For purposes of clemency and equity consideration, the Board considered the supporting documentation you provided in support of your application.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 15 February 2024. The AO stated in pertinent part:

During military service, he was evaluated and declined treatment for alcohol use disorder. There is no evidence that he was diagnosed with another mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of another mental health condition. Post-service, he has received a diagnosis of a mental health condition that is temporally remote to his military service and appears unrelated. Unfortunately, his personal statement is

not sufficiently detailed to provide a nexus with his misconduct, particularly given pre-service behavior that appears to have continued in 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 a mental health condition that may be attributed to military service, other than alcohol use disorder. 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. Further, the Board concurred with the AO that there is insufficient evidence of a diagnosis of a mental health condition that may be attributed to military service, other than alcohol use disorder, and there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As the AO explained, your personal statement is not sufficiently detailed to provide a nexus with your misconduct, particularly given your pre-service behavior that appears to have continued in service, and there is no evidence that you were diagnosed with another mental health condition in military service or exhibited any psychological symptoms or behavioral changes indicative of another 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. The Board noted that you were provided multiple opportunities to correct your conduct deficiencies during your service; however, you continued to commit additional misconduct. Your Page 11 counseling and multiple periods of UA, not only showed a pattern of misconduct but were sufficiently serious to negatively affect the good order and discipline of your command. Finally, the Board noted that you did not provide any evidence, other than your statement, to substantiate your contentions.

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, 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, _____
4/12/2024

