



(Page 13) 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 7 April 1989, you were referred to medical for a psychological examination after crying while talking to the Executive Officer about pending NJP charges. You indicated that you needed to be close to your family because of problems between your parents and that your problems started when you began working in supply, were transferred to the valve shop where you were counseled for “playing around,” and that you believe things will be better in your new job with the Habitability Team. On 19 April 1989, you were sent back to medical after communicating a threat and referred for a psychiatric evaluation. You were diagnosed with Personality Disorder (not otherwise specified) with antisocial, narcissistic features. On 20 April 1989, you were referred to the Fleet mental health unit (MHU) after walking out of a meeting with the ship’s Chaplain and stating that you would shoot someone. While at the Fleet MHU, you denied suicidal or homicidal ideation, but indicated that if your Leading Petty Officer continued “dogging” you, you would hurt him, and stated several times that you wanted to get out of the Navy. On 27 April 1989 you received NJP for communicating a threat. You were again issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct and advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 18 May 1989, you attended a psychiatric follow-up session where you indicated that your mood had improved, you were less angry, you would like to complete your enlisted obligation, and were not interested in further one-on-one sessions.

On 25 May 1989, you received NJP for absence from appointed place of duty and misbehavior of a sentinel. On 8 June 1989, you received NJP for two specifications of absence from appointed place of duty, failure to obey a lawful order, and breaking restriction. On 27 July 1989, you received NJP for absence from appointed place of duty. On 25 August 1989 you received NJP for failure to go to appointed place of duty.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to pattern of misconduct. You elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that you had committed misconduct and recommended that you be discharged under OTH conditions by reason of misconduct due to pattern of misconduct. The separation authority concurred with the ADB and, on 1 December 1989, 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 change your discharge characterization of service and your contentions that you were traumatized by your ship’s recovery of helicopter crash victims and that you were “under investigation for blowing up [your] ship.” 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 29 May 2024. The AO stated in pertinent part:

Petitioner contends he incurred mental health concerns after participating in recovery of a helicopter that was shot down in 1988, which may have mitigated the circumstances of his separation.

[In April 1989, he] was evaluated by a military psychiatrist and diagnosed with Personality Disorder Not Otherwise Specified (NOS), with antisocial and narcissistic features. Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician.

A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service.

Unfortunately, he has provided no medical evidence to support another mental health diagnosis. His in-service misconduct appears to be consistent with his diagnosed personality disorder, rather than evidence of PTSD or another mental health condition incurred in or exacerbated by military service.

The AO concluded, “it is my clinical opinion there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition, other than personality 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board noted you provided no evidence, other than your personal statement, to substantiate your contentions. The Board noted that your in-service statements indicated your actions were due to family concerns and conflicts with your coworkers and chain of command. The Board also noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct, which ultimately led to your discharge due to a pattern of misconduct. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a mental health condition, other than personality disorder, that may be attributed to military service or your misconduct. As explained in the AO, you failed to provide any medical evidence in support of your claim.

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,

8/5/2024

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Executive Director

Signed by: ■