



On 10 December 1991, you commenced a period of unauthorized absence (UA) that ended in your surrender on 13 December 1991. On 21 January 1992, you commenced a period of UA that ended in your apprehension on 21 March 1992. On 27 April 1992, you commenced a period of UA that ended in your apprehension, on 16 May 1992, after you were found unconscious and treated at a civilian hospital. While in the emergency room, the medical personnel detected alcohol on your breath and performed a drug screen where you tested positive for marijuana and cocaine.

On 25 June 1992, you were found guilty at Special Court Martial (SPCM) of two specifications of unauthorized absence and wrongful use of marijuana and cocaine. You were sentenced to reduction in rank to E-1, confinement, and a Bad Conduct Discharge (BCD). Subsequently, the findings and sentence in your SPCM were affirmed and you were issued a BCD on 3 February 1993.

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 incurred PTSD during a deployment to the Middle East, were “caught up” in riots when your ship was in port for decommissioning, were bullied, robbed, and afraid to go back to your ship because your attackers knew what ship you were on, you then returned to your ship and received punishment, and the next time you were able to leave the ship, you were kidnapped and beaten for not buying drugs and ended up in the hospital from the beating. 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 17 July 2024. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) during military service, which may have contributed to the circumstances of his separation. He denied mental health symptoms during a May 1990 examination in preparation for overseas assignment. From January to March 1992, the Petitioner was on unauthorized absence (UA) for 59 days. In March 1992, he was evaluated and found fit for confinement.

From April to May 1992, the Petitioner was UA for 29 days. He was hospitalized in a civilian hospital after he was “found unconscious, apparently beaten about the face.” He was admitted “for observation. Hospital course unremarkable...Drug screen +THC/cocaine.”

[Petitioner] denied mental health symptoms during his separation physical.

Petitioner contended he incurred PTSD from a deployment during Operation Desert

Shield/Storm. He claimed that when his ship returned, “Me [sic] and some of my shipmates was [sic] bullied around and robbed for money...I was hiding from them. I didn’t report back because knew [sic] what ship I was on...I got jumped...and they really kidnapped me for ransom...One day I tried to run and they beat me up again and I was put in the hospital...then the military found me.”

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct, particularly given preservice behavior.

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 SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug offenses. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board also considered the likely negative impact your misconduct had on the good order and discipline of your command. Additionally, the Board concurred with the AO and determined that there is there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service and insufficient evidence to attribute your misconduct to PTSD or 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 not be held accountable for your actions. Finally, the Board noted you provided no 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 a BCD. 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. 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,

9/19/2024

