

with counsel and waived your right to present your case to an administrative discharge board. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner] has demonstrated by his conduct over the past seven months that his continued naval service is no longer warranted. His non-judicial punishments, including serious offenses for which he could have received a punitive discharge, demonstrate his inability to follow Navy rules and regulations and to conform to military standards. He has become an administrative burden for his chain of command and separation from the naval service is considered appropriate because of the nature of his offenses

The separation authority directed your OTH discharge from the Navy by reason of misconduct due to commission of a serious offense and, on 18 January 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 upgrade your discharge character of service so that you may begin seeking the medical attention that you need. The Board considered your contentions that: (1) you incurred PTSD from hazing and racial discrimination, which contributed to your mental health and misconduct, (2) your depression, consumption of alcohol, and thoughts of suicide worsened as time continued, (3) you were self-medicating with alcohol to make the pain stop, and (4) you went to medical on multiple occasions and the problem was not resolved. For purposes of clemency and equity consideration, the Board considered your statement and the 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 26 July 2024. The AO stated in pertinent part:

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. Temporally remote to his military service, he has received mental health diagnoses that have been attributed to his service. Unfortunately, available records are not sufficiently detailed to provide a nexus with his misconduct, particularly given pre-service behavior. 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 a civilian provider of a provisional diagnosis of PTSD and other mental health concerns that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another mental health condition."

In response to the AO, you submitted supporting documentation that provided additional clarification of the circumstances of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

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. The Board also considered 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 a civilian provider of a provisional diagnosis of PTSD and other mental health concerns that may be attributed to military service, there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As the AO explained, the available records are not sufficiently detailed to provide a nexus with your misconduct, particularly given your pre-service behavior, and there is no evidence that you were diagnosed with a mental health condition in military service or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

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 your statement and 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 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,

10/2/2024

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Executive Director

Signed by: ■