



or be subject to orders to active duty and/or a less than Honorable discharge. You were honorably released from IADT on 25 August 2001.

On 22 July 2002, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct, specifically unsatisfactory participation in the Selected Marine Corps Reserve (SMCR). You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. You received additional Page 11 warnings for unsatisfactory participation in the SMCR on 16 December 2002 and 13 January 2003.

On 31 January 2003, you were recalled to active duty and released honorably on 31 July 2003. On 7 August 2005, you received Page 11 counseling regarding unsatisfactory participation in the SMCR. Your command attempted to contact you via telephone on 6, 10, and 11 September 2005 regarding missed drill periods and you failed to respond to their messages. You were sent written correspondence regarding your unsatisfactory participation in the SMCR on 20 September 2005 and again on 10 January 2006. You failed to respond to your command's repeated attempts to contact you.

Consequently, on 16 June 2006, you were notified, via certified mail, of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of Unsatisfactory Participation in the Ready Reserve due to unauthorized absence from thirty-six scheduled drill periods. You failed to respond to this notification, which constituted a waiver of your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. The Separation Authority subsequently directed your discharge with an OTH characterization of service on 2 July 2007, and 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 Memo. These included, but were not limited to, your desire to change your discharge characterization of service and your contentions that your active-duty environment and lifestyle led to excessive alcohol consumption, which caused mental and physical challenges that led to your discharge, and that post-service you have completed classes, married and had children, and contributed to charitable endeavors. 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 9 August 2024. The AO stated in pertinent part:

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

There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any symptoms of a mental

health condition. He submitted diagnostic summaries from 2019 – 2024 that note “Irritability and Anger,” which is not a formal mental health diagnosis as per █ and is temporally remote to service. His statement is not sufficiently detailed to 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 failure to attend required drills, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated conduct had on the good order and discipline of your command. 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 discharge for unsatisfactory participation in the SMCR. Additionally, 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, the medical evidence you provided is not a formal mental health diagnosis and your statement is not sufficiently detailed to provide a nexus with your misconduct.

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, 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,

10/29/2024

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