



administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct. On 17 March 1980, you received NJP for willfully disobeying a lawful order. On 8 July 1980, you received NJP for being disrespectful to a commissioned officer. On 20 August 1980, you received NJP for willfully disobeying an order, assault, and two specifications of unauthorized absence (UA). On 30 September 1981, you received NJP for wrongful possession of marijuana. On 24 December 1981, you were placed in pre-trial confinement pending Special Court-Martial (SPCM). On 23 February 1982, you were found guilty at SPCM of two specifications of willfully disobeying a staff NCO (SNCO), two specifications of assaulting a SNCO, being disrespectful to an SNCO, and violating a General order. You were sentenced to reduction in rank to E-1, forfeitures, and confinement. Consequently, on 13 July 1982, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to frequent involvement with military authorities. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board (ADB).

On 19 July 1982, you received NJP for disrespect to a commissioned officer, willfully disobeying an order from a commissioned officer, sleeping on post, and being incapacitated for duty as a result of previous indulgence in intoxicating liquor. Ultimately, the Separation Authority directed your discharge with an OTH characterization of service and you were so discharged on 7 October 1982.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 22 October 1984, 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 change your discharge characterization of service and your contentions that your discharge should be upgraded based on length of time served, performance, commendations achieved, unlawful detainment, harassment, abuse, and mental incapacitation. You also requested that your correspondence courses, meritorious mast, letter of commendation, and proficiency and conduct marks be added to your DD Form 214. 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 12 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.

In December 1978, he was admitted to the hospital following complaints of headache and "fainting in formation," a few days prior. Medical workup was deemed normal. Notes read, "When discussed frankly with the [applicant], he felt the dissatisfaction he has experienced with his military service may contribute to

his headache." He was returned to duty and diagnosed with Headache, Tension Type, and Immature Personality Disorder. During attempted discharge from the hospital, he was observed staggering in the hallway. The medical note further indicated, "Again no organic etiology could be found for this behavior, and the [applicant's] discharge was cancelled to allow for neuropsychiatric evaluation." Following psychiatric evaluation, the author of the note wrote, "[Psychiatrist] of the neuropsychiatric department evaluated [applicant] and felt that this behavior was manipulative with[out] traceable etiology." He was subsequently recommended for administrative separation.

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. His statement is not sufficiently detailed to provide a nexus with his misconduct. He did not provide any medical evidence in support of his claim.

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 NJPs and SPCM, 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 that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct, including six NJPs and one SPCM in less than four years, which ultimately led to your discharge for a pattern of frequent involvement with military authorities. 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, you did not provide any medical evidence in support of your claim. 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 found no evidence that you were unlawfully detained or treated unfairly by the Marine Corps.

Regarding your request for the aforementioned items to be added to your DD Form 214, the Board determined, in accordance with the governing policies at your time of discharge, the information was not appropriate to include on the DD Form 214.

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,

10/29/2024

