



were found guilty at Summary court-martial (SCM) of four specifications of failing to go to your appointed place of duty at the prescribed time and for disobeying a lawful order from a non-commissioned officer (NCO). On 14 March 1994, you received NJP for wrongfully uttering forty-two personal checks without sufficient funds. 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 waived 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 and you were so discharged on 4 August 1994.

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 came from a broken home where your mother was abused, this made you mistrustful, you wish you had trusted your chain of command more and things might have ended differently, and that you were unfairly chastised and physically abused for assisting a fellow Marine in returning safely from liberty. 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 5 August 2024. The AO stated in pertinent part:

Petitioner contends he incurred mental health concerns during military service, which may have contributed to circumstances of his separation.

In January 1994, the Petitioner was evaluated by a military psychiatrist. He received no diagnosis of anxiety or depression, and was diagnosed with Borderline Personality Disorder, severe. He was recommended for administrative separation.

Petitioner contended he was unfairly chastised and physically abused for assisting a fellow Marine in returning safely from liberty.

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. A personality disorder diagnosis indicates lifelong characterological traits unsuitable for military service. Unfortunately, he has provided no medical evidence to support his claims of another mental health condition. There is insufficient evidence to attribute his misconduct to a mental health condition incurred in or exacerbated by military service, given that financial mismanagement and theft are not typical symptoms of a mental health condition,

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.”

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 SCM, 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, which ultimately led to your discharge for a pattern of misconduct. Further, the Board further noted you provided no evidence, other than your personal statement, to substantiate your contentions. Finally, 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 to attribute your misconduct to a mental health condition. As explained in the AO, you provided no medical evidence in support of your claims. 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.

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. 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,

10/29/2024

