



Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse (possession). You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. On 6 February 1984, you were evaluated for drug dependency, disclosed occasional pre-service and in-service marijuana use, and were determined to be a non-dependent experimental user. The Separation Authority subsequently directed your discharge with an OTH characterization of service, and you were so discharged on 9 March 1984.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 23 January 1995, 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 you have struggled with drugs and alcohol since you were a teenager and realize now that you have substance use disorder, you have been clean and sober for “some time,” and you were not offered any treatment while in-service. For purposes of clemency and equity consideration, the Board considered your statement, the advocacy letter, and the substance use disorder information sheet you provided.

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 6 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 February 1984, he was evaluated by a military psychiatrist. During the evaluation, he endorsed “occasional prior service marijuana use and admits using it several times since then to escape from the ship.” He denied drug dependence, and the provider noted he was an “occasional user but getting him to stop may be difficult.” The Substance Abuse Report noted that marijuana was found during a search based on probable cause. In March 1984, he was discharged under other than honorable conditions.

Petitioner submitted an April 2024 character reference from a mental health provider. He provided general information about substance use disorders.

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. The absence of formal mental health diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed. He has provided no medical evidence to support his claims. Unfortunately, there is insufficient evidence to attribute his misconduct to 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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved a drug offense. 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 repeated misconduct had on the good order and discipline of your command. 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.

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,

11/7/2024

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Executive Director

Signed by: ■