



Memos. These included, but were not limited to, your desire to upgrade your discharge character of service and change your separation code. The Board considered your contentions that: (1) you made a mistake and felt shame for what you had done, (2) entering the end of your enlistment, you found yourself disconnected and viewing yourself in the third person, (3) you were afraid to speak to anyone about your mental state because you were afraid that you would be medically discharged, and (4) your mental state was one of the leading factors of your misconduct. You assert that you have assisted in helping to organize fundraisers to feed families on Thanksgiving, gifts for children less fortunate, and raising money for families suffering tragic events. You have started a small catering business, attended school for your medical assistant certification, and attained your associate's degree in Surgical Technology. 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, qualified mental health professionals reviewed your contentions and the available records and provided the Board with an AO on 22 August 2024. The AO stated in pertinent part:

The Petitioner submitted four-character references and an academic transcript in support of his claim. 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 submit any medical evidence in support of his claim. Additional records (e.g., mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

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 non-judicial punishment for larceny, 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 there is insufficient evidence of a mental health condition that may be attributed to military service and there is insufficient evidence that your misconduct could be attributed to a mental health condition. As the AO explained, your statement is not sufficiently detailed to provide a nexus with your misconduct and there is no evidence that you were diagnosed with a mental health condition while in military service, or that you exhibited any symptoms of a mental health condition. Additionally, you did not submit 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 otherwise not be held accountable for your actions. The Board found that your misconduct was intentional and made you unsuitable for continued naval service.

As a result, the Board determined your conduct constituted a significant departure from that expected of a service member and continues to warrant an Other Than Honorable (OTH) characterization. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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,

11/5/2024



Executive Director

Signed by: 