



your procedural right to consult with counsel and to present your case to an administrative discharge board. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner] has been assigned to my command for five months. Half of that time she has been an unauthorized absentee. She has not made an effort to conform to Navy regulations and show no potential for further service.

The separation authority directed your OTH discharge from the Navy by reason of misconduct due to commission of a serious offense and you were so discharged on 11 September 1991.

You previously applied to this Board for an upgrade to your characterization of service and were denied relief on 17 December 2015. Before this Board's denial, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 12 December 1994, 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 upgrade your discharge character of service to obtain veterans' benefits and contention that you were discharged without consideration of your mental health condition that was later diagnosed by the Department of Veterans Affairs (VA). For purposes of clemency and equity consideration, the Board noted you provided documentation from the VA but no documentation describing post-service accomplishments or advocacy letters.

As part of the Board's review, a qualified mental health professional reviewed your contention and the available records and provided the Board with an AO on 8 October 2024. The AO stated in pertinent part:

The Petitioner submitted VA compensation and pension rating noting service-connection for Major Depressive Disorder with Generalized Anxiety Disorder for treatment purposes only (April 2023). There is evidence that the Petitioner was diagnosed with an Adjustment Disorder and Personality Disorder while in service. Psychiatric records also note prior suicidal gesture pre-service, the details of which are consistent with her diagnosis of Borderline Personality Disorder. Petitioner was appropriately referred for psychological evaluation during her enlistment and properly evaluated during an inpatient hospitalization and follow-up appointments. Her personality disorder diagnosis was based on observed behaviors and performance during her period of service, the information she chose to disclose to the mental health clinician, and the psychological evaluation performed by the mental health clinician. A personality disorder diagnosis is pre-existing to military service by definition, and indicates lifelong characterological traits unsuitable for military service, since they are not typically amenable to treatment within the operational requirements of Naval Service.

The AO concluded, “it is my considered clinical opinion there is sufficient evidence of a mental health condition that is temporally remote to service. There is insufficient evidence that her 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 NJP, 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 based on the comments from your CO. Further, the Board concurred with the AO that, while there is sufficient evidence of a mental health condition that is temporally remote to service, there is insufficient evidence that your misconduct could be attributed to a mental health condition. As the AO explained, you were appropriately referred for psychological evaluation during your enlistment and properly evaluated. Furthermore, the Board determined your post-service diagnosis is temporally remote to your military service. 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits or enhancing educational or employment opportunities.

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 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,

12/20/2024

