



administrative discharge. On 30 January 2002, you received non-judicial punishment (NJP) for violating a lawful order by having a tongue piercing and wearing a stud through your tongue. On 5 February 2002, you were issued another Page 11 counseling and were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 22 March 2002, you joined your operational squadron at █ for duty. Three days later, on 25 March 2002, you commenced a period of unauthorized absence (UA), during which you were declared a deserter, that ended on 18 July 2002. On 28 August 2002, you were found guilty at Summary Court Martial (SCM) of UA from 25 May 2002 to 18 July 2002. You were sentenced to forfeitures of pay and confinement.

From 13 February 2003 to 13 June 2003, you were assigned temporary additional duty (TAD) to support Operation Enduring Freedom (OEF). On 6 October 2003, you received NJP for failure to report to your workstation and violation of a direct order from a staff non-commissioned officer.

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 elected to consult with legal counsel and subsequently waived your right to have your case heard by administrative discharge board. The Separation Authority directed your discharge with an OTH characterization of service, and you were so discharged on 20 February 2004.

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 incurred PTSD during your service in Iraq and that you have several post-service accomplishments, including pursuing a dual major in college, raising a family, joining a church, and volunteering. 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 2 October 2024. The AO stated in pertinent part:

Petitioner contends he incurred Post Traumatic Stress Disorder (PTSD) and other mental health concerns from combat exposure in Iraq, which may have contributed to his separation from service.

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. Throughout his disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. He has provided no medical

evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with his misconduct.

The AO concluded, “it is my clinical opinion that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD or another 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 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. The Board also noted you provided no evidence, other than your personal statement, to substantiate your contentions. The Board further observed that most of your misconduct, including one NJP and the SCM for the extended period of UA, occurred prior to your deployment in support of OEF. Finally, the Board concurred with the AO and determined that there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service and insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As explained by the AO, you provided no medical evidence in support of your contention. 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,

12/3/2024

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Executive Director

Signed by: ■