



unauthorized absence and breaking restriction. Consequently, you were notified of administrative separation for misconduct due to a pattern of misconduct and commission of a serious offense. You waived your right to consult with counsel and present your case at an administrative board hearing. Your commanding officer forwarded your separation package to the separation authority (SA) recommending an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation and you were so discharged on 13 August 1990.

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 and contentions that: (1) your wife was killed in a car accident on 27 December 1987, (2) you struggled to cope, (3) your attitude and demeanor changed and you did not understand this at the time, (4) you struggled with the loss of your wife, and you did not understand that you had developed a mental health condition because of it, (5) you went from being a stellar Seaman to getting in trouble, and (6) you now have a service connected mental health condition through the Department of Veterans Affairs (VA). For purposes of clemency and equity consideration, the Board considered the documentation you provided in support of your application.

Because you contend that other mental health impacted your misconduct, the Board considered the AO dated 1 November 2024. The AO stated in pertinent part:

The Petitioner contends he incurred “mental health concerns following the death of his wife in a car accident in December 1987, which contributed to his misconduct. He has been granted service connection for Adjustment Disorder with Mixed Anxiety and Depressed Mood, effective August 2022.

There is no evidence that the Petitioner was diagnosed with a mental health condition in the military service. Temporally remote to his military service, the VA has granted service connection for a mental health condition. Unfortunately, available records are not sufficiently detailed to establish a nexus with his misconduct. While the death of his wife and other family stressors may have contributed to his mental health concerns, he had a history of UA and disobedience prior to those events. 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 clinical opinion there is post-service evidence from the VA 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 found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct;

which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Finally, the Board concurred with the AO that there is insufficient evidence that your misconduct could be attributed to a mental health condition. As explained in the AO, there is no evidence that you were diagnosed with a mental health condition while in the military service or that you exhibited any symptoms of a mental health condition. Additionally, the Board agreed that your statement is not sufficiently detailed to provide a nexus with your misconduct. 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 determined 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,

2/5/2025

