



go at your prescribed place of duty. On 10 June 1994, you were counseled concerning your failure to conform to weight standards.

On 21 May 1995, you were counseled concerning your failure to conform to weight standards. On 6 July 1995, you were convicted by a summary court-martial (SCM) of assault and being intoxicated at work. On 28 July 1995, you were convicted by another SCM of breaking restriction. On 25 August 1995, you were counseled concerning your failure to conform to weight standards. On 16 November 1995, you received your third NJP for failure to appear at the Motor Pool for morning formation, insubordinate conduct, four specifications of failure to obey a lawful order, and drunk and disorderly conduct.

Consequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct. You were informed of the basis for this recommendation and that the least favorable characterization of service you may receive is Under Other Than Honorable (OTH) conditions. You elected your right to consult with counsel and waived your right 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 Marine Corps. As part of the CO's recommendation, he stated in pertinent part:

It is recommended that [Petitioner] be discharged from the United States Marine Corps by reason of misconduct due to a pattern of misconduct as evidenced by his numerous violations of the UCMJ. It is further recommended that [Petitioner] be discharged with an Under Other Than Honorable Conditions characterization of service.

[Petitioner's] complete disregard for orders and conduct is prejudicial to good order and discipline. [Petitioner] has not exhibited any desire to be retained on active duty as is evidenced by his service record. He has no potential for future service and should not be retained in the Marine Corps as a mobilization asset.

The separation authority approved the recommendation, and you were so discharged on 2 February 1996.

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 so that you may receive benefits. The Board considered your contentions that: (1) your discharge is unfair, (2) you incurred mental health concerns when you learned of your friend passing away in a car accident; which contributed to your problematic alcohol use and subsequent misconduct, (3) you were not offered counseling or rehabilitation to help with your behavior in service when you were emotionally and mentally breaking down due to the loss of your friend, (4) you were offered an option of leaving early, (5) if you understood what your discharge character of service was going to be, you would have never left early and dealt with all that was going on in your mind, (6) at the time of your discharge, no one or that you could recall knew that your discharge would be an OTH at your early release, and (7) you regret your behavior and wish that you could have that time back to do over. For purposes of clemency and

equity consideration, the Board considered the documentation you provided in support of your application.

As part of the Board's review, a qualified mental health professional reviewed your contentions and the available records and provided the Board with an AO on 5 December 2024. The AO stated in pertinent part:

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. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of mental health concerns 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 counselings, NJPs, and SCMs, 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 likely negative impact your conduct had on the good order and discipline of your unit. Further, the Board concurred with the AO that there is insufficient evidence of mental health concerns that may be attributed to military service and there is insufficient evidence to attribute your misconduct to a mental health condition. As the AO explained, your personal statement is not sufficiently detailed to establish clinical symptoms in service or provide a nexus with your misconduct. Further, throughout your disciplinary processing, there were no concerns raised of a mental health condition that would have warranted a referral for evaluation. Additionally, the Board agreed there is no evidence that you were diagnosed with a mental health condition in military service, or that you exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. 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 and were properly discharged based on your misconduct. Furthermore, the Board noted that you were provided multiple opportunities to correct your conduct deficiencies during your service, but you continued to commit additional misconduct; which led to your OTH discharge.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. 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,

2/12/2025

