



You enlisted in the Marine Corps and began a period of active duty on 28 August 1989. On 7 February 1991, you received non-judicial punishment (NJP) for failure to be at your appointed place of duty and disobeying a lawful order. Additionally, you were issued an administrative remarks (Page 11) counseling concerning the responsibilities of the company assistant duty noncommissioned officer (NCO) and insubordinate bearing, demeanor, and body language while

at company office hours. On 4 March 1991, you received your second NJP for disrespect to a superior NCO and disobeying a lawful order. On 14 March 1991, you were issued a Page 11 counseling concerning disobedience of lawful orders from an NCO and disrespect towards a superior NCO. The Page 11 expressly advised you that failure to take corrective action may result in administrative separation. On 3 December 1991, you were issued a Page 11 counseling concerning deficiencies in your performance/conduct. Specifically, your continued pattern of misconduct as evidenced by your two NJPs and two adverse Page 11 entries. Additionally, the Page 11 expressly advised you that failure to take corrective action or any further deficiencies in your performance/conduct may result in further disciplinary action and/or processing for administrative discharge. On 2 July 1992, you received your third NJP for operating a motor vehicle while your driving privileges were revoked. On 22 September 1992, you received your fourth NJP for leaving your appointed place of duty without authority and disobedience of a lawful order.

Consequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to minor disciplinary infractions. 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 waived your right to consult with counsel to present your case to an administrative discharge board. The commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Marine Corps with an under OTH conditions characterization of service. The separation authority approved the recommendation and you were so discharged on 20 November 1992.

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) you have been diagnosed with a mental illness by a medical professional which you believe originated during your time in the military, (2) the toxic environment of being belittled, bullied, and peer pressured to engage in harmful behaviors such as drinking had a profound impact on your mental well-being, (3) you were only 17 and struggled to cope and did not understand how to seek help without fear of negative repercussions, (4) you attribute your misconduct to your unstable mental health at the time and the challenges you faced in a demanding and unforgiving environment, (5) the Executive Officer should have recognized the signs of your struggle and intervened to ensure you received the necessary support and assistance, (6) despite your past errors, you have since improved your life by obtaining a barber license, starting a business, and caring for your children, and (7) an upgrade of his discharge character of service is important to you because it will recognize the positive changes that you have made in your life and provide you with the opportunities and benefits associated with an Honorable discharge. 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 3 February 2025. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during his military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a mental health condition. Although it is possible that Petitioner was suffering from mental health issues while in service, repetitive instances of disrespect and failure to obey orders are not commonly caused by mood disorder symptoms. Additional records (e.g., active duty medical records, post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his separation) would aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is sufficient evidence of a post-service diagnosed mental health condition. 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 evident by your multiple counselings and NJPs, 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 observed 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. 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 unit. Further, the Board concurred with the AO that, while there is sufficient evidence of a post-service diagnosed mental health condition, there is insufficient evidence to attribute your misconduct to a mental health condition. As the AO explained, while it is possible that you were suffering from mental health issues while in service, your repetitive instances of disrespect and failure to obey orders are not commonly caused by mood disorder symptoms. The Board agreed there is no evidence that you were diagnosed with a mental health condition during your military service or that you exhibited any psychological symptoms or behavioral changes indicative of a 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 you were properly discharged based on your misconduct. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a service member.

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 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,

4/3/2025

