

On 6 June 1995, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct; specifically, failure of the Marine Corps Physical Fitness Test. On 1 May 1996, you received Page 11 counseling for failure to prepare for a uniform inspection. On 14 May 1996, you received Page 11 counseling for accumulation of points and revocation of your driving privileges. On 15 July 1996, you received Page 11 counseling for failure to make payments on your Deferred Payment Plan. On 7 February 1997, you received Page 11 counseling for failing to maintain sufficient funds in your checking account resulting in dishonored checks. On 13 March 1997, you received Page 11 counseling for collecting Basic Allowance for Quarters (BAQ) while residing in family-type government quarters. After each of the six Page 11 counselings from June 1995 to March 1997, you were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 9 May 1997, you received non-judicial punishment (NJP) for two specification unauthorized absence (UA) for failure to go at time prescribed to your appointed place of duty. On 25 June 1997, you received NJP for four specifications of making, drawing, or uttering a check, draft, or order without sufficient funds, for values of \$359.92, \$300.00, \$500.00, and \$1,000.00.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to minor disciplinary infractions. You waived your right to consult counsel but requested an administrative discharge board (ADB).

On 17 July 1997, you were referred for a psychiatric evaluation after you “communicated a threat to [your] Non-commissioned Officer in Charge stating [you] would shoot him.” You were diagnosed with possible “reactive depression” or an adjustment disorder.

On 21 July 1997, you received Page 11 counseling for communicating a threat and, on 6 August 1997, you received Page 11 counseling for failure to make payments on your Deferred Payment Plan. On 15 August 1997, you were re-notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to minor disciplinary infractions and pattern of misconduct. You initially waived your right to consult counsel and requested an administrative discharge board (ADB). However, after you consulted with counsel, you later waived your right to have your case heard by an ADB. The separation authority directed your discharge with an OTH characterization of service for pattern of misconduct and you were so discharged on 26 September 1997.

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 your misconduct was mitigated by Attention-deficit / hyperactivity disorder (ADHD), depression, and anxiety, and that your conduct was also impacted by your marriage to a woman because she became pregnant. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your statement, and the active-duty medical

records, post-service psychiatry notes, doctor's note, VA disability benefits questionnaire, and advocacy letters you provided.

As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 11 July 2025. The AO stated in pertinent part:

Petitioner contends he incurred mental health issues during military service, which may have contributed to the circumstances of his separation from service.

There is evidence that just prior to separation and following command punishment, the Petitioner was diagnosed with possible "reactive depression" or an adjustment disorder. The Petitioner came into service with a waiver for uttering checks without sufficient funding. Unfortunately, this behavior continued into service. Knowingly and repetitively issuing checks without sufficient funds is not typically caused by symptoms of depression. Infrequent and short periods of UA could be caused by depression (poor concentration, memory loss, decreased motivation, etc.). Communicating a threat is not synonymous with depressive symptoms. It is unclear whether the Petitioner's reported depressed mood was due to the circumstances surrounding his discharge and repetitive financial difficulties, or if there was an underlying lowgrade depression that existed.

The AO concluded, "it is my clinical opinion that there is sufficient evidence of a situational mood disorder that existed in service. There is insufficient evidence to attribute *all* of his misconduct to a mental health condition." (Emphasis in original)

In response to the AO, you provided a personal statement that supplied additional clarification of the circumstances of your case. After reviewing your rebuttal evidence, the AO remained unchanged; noting that, although there is evidence of post-service ADHD, knowingly and repetitively uttering checks without sufficient funds exceeds that of what would be expected by inattention and/or hyperactivity associated with an ADHD diagnosis.

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, 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. The Board also considered the likely discrediting effect you repeated failure to pay debts and multiple dishonored checks had on the Navy.

Finally, the Board concurred with the AO and determined that there is insufficient evidence to attribute all of your misconduct to a mental health condition. As explained in the AO, the nature of your misconduct was not synonymous with your diagnosed mental health conditions.

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. Moreover, even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of your serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

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,

9/22/2025

