

27 September 1973, your husband was warned that further misconduct in his performance may result not only in disciplinary action but also in his processing for administrative discharge from the naval service. However, during the period from 7 November 1973 to 20 May 1974, your husband received three additional NJPs. His offenses included two instances of unauthorized absence totaling six days and absence from his appointed place of duty. As a result, your husband was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. He was advised of, and elected his procedural right, to consult with and be represented by military counsel, and his right to present his case to an administrative discharge board (ADB). After consulting with military counsel, your husband signed a conditional agreement between himself and the commanding officer (CO) agreeing to waive his right to present his case to an ADB provided that he received a general (under honorable conditions) characterization of service discharge. Having agreed with the conditional waiver, his CO forwarded his recommendation to the separation authority (SA) recommending that your husband be administratively discharged from the Navy with a general (under honorable conditions) characterization of service. The separation authority approved the CO's recommendation for administrative discharge, and directed your husband's administrative discharge from the Navy with a general (under honorable conditions) characterization of service by reason of unfitness. On 20 June 1974, he was so discharged. You provided evidence that your husband passed away on 31 December 1985.

As part of the Board's review, a qualified mental health professional reviewed your request and provided the Board with an AO on 12 November 2021. The AO noted that in service, your husband was diagnosed with substance use disorder. Unfortunately, there is no medical evidence that he may have been suffering from a mental health condition. Additional records, such as medical records from post-service mental health providers, are required to render an alternate opinion. The AO concluded by opining that there is insufficient evidence that your husband may have incurred an unfitting mental health condition during military service, and there is insufficient evidence that his misconduct could be mitigated by an unfitting mental health condition.

The Board carefully reviewed your application, weighed all potentially mitigating factors, and considered your contentions that your husband believed his discharge had been changed, he suffered from mental health issues, that served and fought for the United States during wartime, and that you believe that he deserves another chance. After careful consideration of the AO, your submission of supporting documentation, and applying liberal consideration, the Board did not find an error or injustice that warrants upgrading your husband's characterization of service or granting clemency in the form of an upgraded characterization of service.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your contentions as previously discussed and your desire to upgrade your husband's discharge character of service. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your husband's misconduct, as evidenced by his five NJPs, outweighed these mitigating factors. The Board reached this conclusion after weighing the seriousness and

number of offenses he committed against his active duty service record. As such, the Board determined while your husband's service may have been honest and faithful, there were significant negative aspects of his conduct that outweighed the positive aspects of his military record. Accordingly, given the totality of the circumstances, the Board determined 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, _____

2/7/2022

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Executive Director
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