



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 4670-21
Ref: Signature Date



Dear Petitioner:

This is in reference to your application for correction of your husband's naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 13 December 2021. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were, reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your husband's naval record, and applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 22 October 2021, which was previously provided to you.

Your husband enlisted in the Marine Corps and began a period of active duty on 16 April 1963. During the period from 20 September 1964 to 12 May 1966, he participated in approximately 20 combat missions in Vietnam. During the period from 18 March to 10 August 1964, he received four instances of nonjudicial punishment (NJP) for disobeying a lawful order, going from his appointed place of duty, and two brief periods of unauthorized absence (UA). On 26 September 1964, he was convicted by summary court-martial (SCM) of UA. During the period from 11 January 1965 to 12 January 1966, he received three additional NJPs for brief UA, being drunk in uniform in public, failing to obey an order, disrespect toward a non-commissioned officer, and being drunk in camp. On 22 June 1966, he was convicted by special court-martial (SPCM) of assault, and was sentenced to a period of confinement at hard labor, a forfeiture of pay, and a

reduction to paygrade E-1. On 7 November 1966, he received NJP for a brief period of UA. On 22 April 1967, he was convicted by SPCM of 77 days of UA, ending in his apprehension. He was sentenced to a period of confinement at hard labor, a forfeiture of pay, and a bad conduct discharge (BCD). He received his BCD on 17 November 1967.

A qualified mental health professional reviewed your request for correction to your husband's record and provided the Board with an AO regarding your assertion that he was suffering from Post-Traumatic Stress Disorder during his service. The AO noted that based on the current available evidence, there is some evidence in your husband's service record that he may have incurred PTSD during his military service, and there is evidence that some but not all of his misconduct could be attributed to symptoms of PTSD.

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 statement that: (a) your husband was a Vietnam veteran who suffered from undiagnosed PTSD, he was a completely different person after his deployment to Vietnam, and was a rifleman, who saw and participated in a lot of combat; (b) he was awarded the Vietnamese Cross of Gallantry w/Bronze Star, Vietnamese Service and Campaign Medals, and a Purple Heart, and that you believe he should have received the Marine Corps Combat Action Ribbon; (c) your husband always had trouble with authority after coming home from Vietnam, he suffered with PTSD and alcoholism stemming from his attempts to self-medicate, and you are hoping to have his discharge upgraded to more accurately reflect the majority of his service to America. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your husband's misconduct, as evidenced by his eight NJPs, SCM, and two SPCM convictions for very serious offenses outweighed these mitigating factors. The Board specifically noted your husband's Vietnam service, numerous combat missions, and personal awards; however, after considering 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,

12/23/2021

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Executive Director

Signed by: █