

DEPARTMENT OF THE NAVY

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

> Docket No: 6127-22 Ref: Signature date



Dear Petitioner:

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

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A threemember panel of the Board, sitting in executive session, considered your application on 3 October 2022. 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 father's naval record, applicable statutes, regulations, and policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

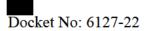
Your father enlisted in the Navy and began a period of active duty on 23 February 1956. On 2 August 1956, he received nonjudicial punishment (NJP) for missing duty section muster. On 11 March 1957, he received a second NJP for disorderly conduct. On 16 September 1957, he began a period of unauthorized absence (UA) which lasted three days and resulting on him missing ship movement. From a period beginning on 8 November 1957 to 26 April 1958, he received NJP on three occasions for the following offenses: missing ship movement, conduct of nature to bring discredit upon the Armed Forces, and sleeping while on watch. On 24 June 1958, he began a second period of UA which lasted eight days. On 22 August 1958, he was convicted by special court martial (SPCM) for that period of UA. He was sentenced to reduction to the rank of E-1, confinement at hard labor, and forfeiture of pay. On 27 August 1958, his SPCM sentenced was affirmed. On 17 September 1958, he was diagnosed by a medical officer with inadequate personality. As a result, on 3 October 1958, he was notified of the initiation of administrative separation proceedings by reason of unsuitability. On 9 October 1958, his

commanding officer recommended a General (Under Honorable Conditions) discharge characterization of service by reason of unsuitability. On 16 October 1958, the separation authority approved and ordered a General (Under Honorable Conditions) discharge characterization by reason of unsuitability. On 1 December 1958, he was discharged.

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 desire for an upgrade of your father's characterization of service and contentions that his post service conduct and accomplishments were outstanding, he was undisciplined at the time of his service due to his young age and upbringing, and he successfully raised a family after his discharge. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your father's misconduct, as evidenced by his NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your father's misconduct and the likely negative impact it had on the good order and discipline of his unit. As a result, the Board concluded significant negative aspects of your father's conduct outweighed the positive aspects and continues to warrant an (General Under Honorable Conditions) characterization. The Board considered your assertions regarding post-discharge character and accomplishments but concluded that the favorable matters you contend were also insufficient to outweigh the severity and nature of your father's misconduct. Ultimately, the Board determined your father already received a large measure of clemency from the Navy when they assigned him a General (Under Honorable Conditions) characterization of service despite a record of misconduct that normally would receive a lesser characterization of service. It was the Board's opinion that his chain of command, more likely than not, took into consideration his age, prior history, and personality disorder when assigning him his characterization of service. Therefore, after applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your father's characterization of service or granting clemency in the form of an upgraded characterization of service. 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 the 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,

10/18/2022