



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

█
Docket No. 2899-23

Ref: Signature Date

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Dear █

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 relevant portions of your husband'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 you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 17 April 2023. 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

Your husband, hereafter referred to as █ enlisted in the U.S. Marine Corps Reserve and entered active duty on 9 April 1973. After completing his initial period of active duty for training, he was released to his unit on 28 September 1973.

█ began a second period of active duty in the Marine Corps on 18 April 1974. █ MOS was infantry. On 25 June 1974, a command investigation into the hospitalization of several

Marines due to drug abuse was completed. The investigation found that drugs were being used, held, exchanged or sold by persons assigned to 'D' Company aboard USS ██████████ and USS ██████████ during their deployments in Europe. During the investigation, ██████████ admitted to the purchase, sale, and transfer of drugs aboard naval vessels and during multiple port visits overseas. As a result, on 30 July 1974, ██████████ was notified of his pending administrative separation by reason of drug abuse, which included possessing, selling, and transferring controlled substances aboard a naval vessel, at which time he elected his right to consult with military counsel and to have his case heard before an administrative discharge board (ADB).

On 6 February 1975, an ADB was convened and found ██████████ unfit for further military service and recommended he be discharged with an Other Than Honorable (OTH) characterization of service by reason of unfitness on the basis of drug abuse. On 20 February 1975, a staff judge advocate/military counsel's review found the proceedings were sufficient in law and fact. On 26 February 1975, the separation authority directed ██████████ be discharged with an OTH by reason of drug abuse. On 13 March 1975, ██████████ was so discharged.

Post-discharge, ██████████ submitted an application to upgrade his discharge via the Naval Discharge Review Board (NDRB). On 17 December 1975, the NDRB denied his request after determining his discharge was proper as issued.

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 ██████████ discharge and your contention that ██████████ was assigned to "Special Forces" in ██████████, incurred PTSD during military service and did not received help, and require an upgrade in hopes of having him buried at ██████████ in ██████████. For purposes of clemency and equity consideration, the Board noted you did not provide 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 ██████████ misconduct, as evidenced by his drug offenses, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of ██████████'s misconduct and the fact that it included a drug offense. The Board determined that illegal drug abuse by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board noted that drug abuse in any form is still against Department of Defense regulations and not permitted for recreational use while serving in the military. Further, the Board considered the likely negative effect ██████████'s conduct had on the good order and discipline of his unit. Additionally, the Board noted that all U.S. combat troops had departed the ██████████ by 29 March 1973; before ██████████ entered active duty for his initial training on 9 April 1973. Therefore, the Board was not persuaded by your contentions that he suffered from a mental health condition as a result of ██████████ combat operations. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits. As a result, the Board concluded ██████████'s conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board was sympathetic for your loss and desire to bury your husband in a veterans' cemetery, even in light

of the Wilkie Memo and reviewing the record 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. 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 is attached 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,

5/3/2023

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Executive Director

Signed by: █