



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

██████████  
Docket No. 7207-24  
Ref: Signature Date

████████████████████  
████████████████  
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Dear ██████████

This is in reference to your application for correction of your late husband's naval record pursuant to Section 1552 of Title 10, United States Code. 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 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 three-member panel of the Board, sitting in executive session, considered your application on 9 October 2024. 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 naval record, and 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 husband enlisted in the U.S. Marine Corps and began a period of active duty on 6 March 1968. After completing a combat deployment to the ██████████, he was convicted by a general court-martial (GCM) of four specifications of unauthorized absence (UA), failure to obey a lawful command, and assault on another Marine by threatening him with a loaded .45 caliber pistol. Your husband was sentenced to confinement, forfeiture of pay, reduction in rank and Bad Conduct Discharge (BCD). After completion all levels of review, he was so discharged on 18 August 1970.

Post-discharge, your husband received a presidential pardon consistent with the Presidential Proclamation on 16 September 1974 that granted a blanket pardon to those convicted and receiving a punitive discharge for the offense of UA.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in accordance with the Wilkie Memo. These included, but

were not limited to, your desire for a discharge upgrade and contention that your husband suffered from severe PTSD. The Board noted you checked the "PTSD" box on your application but did not respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

After thorough 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 GCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of SM's misconduct and found that his conduct showed a complete disregard for military authority and regulations. Notwithstanding, the Board concluded that his discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects his conduct during his period of service, which was terminated by his separation with a BCD.

As discussed earlier, the Board noted that your husband's discharge was changed to a clemency discharge under an executive grant of conditional clemency in August 1975. While the Board recognized the forgoing actions, they concluded that a discharge upgrade was not warranted given his extensive periods of UA during a time of war, his failure to obey a lawful command, and committing an assault on another Marine. Ultimately, the Board determined that he already received a large measure of clemency based on his pardon.

As a result, the Board concluded your husband's conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD. While the Board carefully considered the evidence you submitted in mitigation, 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 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 husband's misconduct. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board offers its deepest condolences for your loss.

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,

10/30/2024

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