



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

██████████
Docket No. 9008-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your father's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of his 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 3 February 2025. 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 this 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, and applicable statutes, regulations, and policies, to include the Department of the Navy's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654 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 a 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 father enlisted in the Navy and commenced active duty on 8 June 1943. On 10 January 1945, he was apprehended in the barracks for homosexual actions. Specifically, he was found inappropriately touching the genitalia of another sailor who was sleeping. When questioned about the incident, on 11 January 1945, he admitted to the conduct. Additionally, on 12 January 1945, his navy medical record indicates he admitted to a similar incident six months earlier, while at bootcamp. He also stated he had suffered similar sexual abuse by an older male relative when he was age 7.

On 7 February 1945, your father was diagnosed with Sexual Perversion (Homosexuality). A medical board then found him unfit for service and recommended discharge.

On 26 March 1945, your father was charged at General Court-Martial with scandalous conduct tending to the destruction of good morals for his conduct regarding the sleeping sailor. He elected to accept an undesirable discharge to escape trial and was discharged on 30 March 1945.

Post-discharge, on 28 September 1948, your father's case was reviewed by the Navy Department Board of Review, Discharges and Dismissals. His discharge was found to be proper, requiring no change, correction, or modification.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your father's case in accordance with the DADT repeal guidance and Wilke Memo. These included, but were not limited to, your desire that your father's discharge be upgraded to Honorable (HON) and your contentions that he was discharged with an undesirable discharge due to his sexual orientation and he served his country well and honorably during WWII. For the purposes of clemency and equity, you provided copies of some of your father's service record documents.

After thorough review, the Board concluded it was unable to grant the relief requested. The Department of the Navy's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654 provides service Discharge Review Boards with the guidance to normally grant requests to change the characterization of service to "Honorable" when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct. In your case, the Board determined that your father had aggravating factors in his record. Specifically, he committed misconduct, as evidenced by his apprehension for, and admissions of, inappropriately touching another sailor.

In addition, the Board also noted that the misconduct that led to your father's request to be discharged in lieu of trial by court-martial was substantial and determined that he already received a large measure of clemency when the convening authority agreed to administratively separate him in lieu of trial by court-martial; thereby sparing him the stigma of a court-martial conviction and possible punitive discharge. 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 determined that there was no impropriety or inequity in your father's discharge and concluded that his misconduct and disregard for good order and discipline clearly merited his discharge. While the Board carefully considered your petition and sympathizes with your intentions, 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 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.

The Board would like to note that you may find information on how to request a copy of your father's complete Official Military Personnel File (OMPF) by contacting the National Personnel Records Center at <https://www.archives.gov/person>. His OMPF contains additional information related to the incidents referenced above and may help you reach a better understanding of your father's case. The Board recognizes that this letter is not the best format to relay potentially upsetting and previously unknown information and acknowledges both the tragedy of your father having been a victim of sexual abuse himself, and the upset this information may cause you and your family. It is apparent from your application, and desire to honor your father's service, that his post-service conduct was good, and he was a worthy husband and father.

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,

3/6/2025

