



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. 9943-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your brother's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your brother'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 21 January 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 brother's naval record, applicable statutes, regulations, and policies.

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 brother enlisted in the U.S. Navy on 1 February 1966 and was honorably discharged on 21 November 1968. On 24 September 2009, he submitted a request to the Chief of Naval Personnel (CNP) seeking confirmation of his entitled unit awards. On 22 October 2009, NPC responded to his request and confirmed his entitlement to the Purple Heart Medal, Navy Achievement Medal with Combat 'V,' National Defense Medal, Vietnam Service Medal with Silver Star, Presidential Unit Citation Ribbon, Navy Unit Commendation Ribbon with Bronze Star, Combat Action Ribbon, Navy Expert Pistol Medal, Vietnam Campaign Medal with 1960 Device, and the Republic of Vietnam Meritorious Unit Citation (Gallantry Cross with Palm and

Frame) ribbon bar. On 23 October 2009, a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215) was issued to officially document these awards.

On 7 March 2010, your brother submitted a request for an extension of his discharge date to qualify for the Good Conduct Medal. However, on 14 November 2011, he was issued a NAVPERS 1650/96 (Transmittal of and/or Entitlement to Awards Form) that confirmed he did not meet the eligibility requirements for the Good Conduct Medal; as he had not completed the required three years of continuous active service.

On 8 April 2022, the Chief of Naval Personnel responded to a request regarding the Silver Star (SS) Medal for your brother and stated that no official action could be taken due to insufficient supporting information. Additionally, a congressional inquiry was submitted regarding his eligibility for the SS Medal. In response, PERS-312 (Navy Personnel Command's Records Management and Awards Branch) conducted a comprehensive review of his Official Military Personnel File (OMPF) and the Navy Department Awards Web Service (NDAWS). This review found no documentation supporting eligibility for the SS Medal. Further correspondence from Navy Personnel Command, in May 2023, reaffirmed that his OMPF did not support an eligibility determination for this award.

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 request to have the SS Medal or higher awarded to your brother posthumously and your contentions that: (1) your brother was recommended for the SS during a combat mission on 6 Feb 1968, (2) you have obtained documents that make the case for your brother to receive the SS or higher for his heroic actions that day (running into fire, without a weapon and saving eight men who were cut off from their battalion, and (3) one of those men threw himself on a grenade and, because of your brother's actions, later became a Medal of Honor recipient.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board concurred with the finding outlined in the correspondence you and/or your brother received from the Chief of Naval Personnel, Navy Personnel Command that insufficient evidence exists to support the awarding of the SS or higher award to your brother. While the Board carefully considered your contentions, it relies on presumption of regularity to support official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Ultimately, the Board determined the evidence you submitted was insufficient to overcome this presumption. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

The Board acknowledges your brother's heroic service with deep gratitude and profound respect for his dedication to our country. It also expressed 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,

2/24/2025

