



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. 11663-24
Ref: Signature Date

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Dear ■■■■■■

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 12 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 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 father enlisted in the Navy and began a period of active duty on 23 April 1986. On 24 April 1986, he received administrative remarks (Page 13) counseling on the Navy's drug and alcohol policy. On 2 September 1986, he received nonjudicial punishment (NJP) for a one-day unauthorized absence (UA). On 9 December 1986, he received his second NJP for failure to obey a lawful order and disorderly conduct, drunkenness. On 2 January 1987, he received his third NJP for failure to obey a lawful order. On 5 January 1987, he received a Page 13 counseling for consistently being tardy. On 21 January 1987, he received a Page 13 derogatory remarks on his enlisted performance evaluation. On 28 March 1988, he received his fourth NJP for disrespectful language, disobeying a lawful order, disrespectful language toward a senior chief petty officer, disobeying a lawful order, and resisting apprehension and provoking speeches and gestures. On 9 January 1989, he received his fifth NJP for wrongful use of a controlled substance. Consequently, he was notified that he was being recommended for administrative discharge from the Navy by reason of misconduct due to a pattern of misconduct and drug abuse. He waived his procedural right to consult with military counsel and to present

his case to an administrative discharge board. The commanding officer forwarded his administrative separation package to the separation authority recommending his administrative discharge from the Navy under Other Than Honorable (OTH) characterization of service. Ultimately, the separation authority directed his OTH discharge from the Navy by reason of misconduct due to drug abuse and he was so discharged on 3 February 1989.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your father's case including in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your father's discharge character of service and contentions that: (1) you are trying to get burial benefits for your father, (2) you do not know much about your father's service and now you will not get to find out due to his passing, (3) his record does not accurately depict the man your father was, (4) your father held many titles and he was eagerly awaiting the arrival of his third grandson, (5) you believe drug addiction laid dormant in your father's life, (6) you were not aware of your father's drug addiction, (7) a man was evading police and forcefully harbored himself in your father's house, and when he was apprehended he left drugs behind, (8) your father told you he would get rid of the drugs but, instead, he took them and passed away, and (9) you feel had these drugs not been accessible to him, he would still be alive. For purposes of clemency and equity consideration, the Board considered the documentation you provided describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your father's misconduct, as evidenced by his NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and the fact it involved a drug offense. The Board determined that illegal drug use 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 also observed your father was given multiple opportunities to correct his conduct deficiencies but chose to continue to commit misconduct; which led to his OTH discharge. His conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of his command. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities.

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. 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 him the relief you requested or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

Notwithstanding the Board's decision to deny your request, it 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,

3/13/2025

