



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. 101-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your late brother'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 16 April 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 brother (hereafter referred to as service member (SM)) enlisted in the U.S. Navy and began a period of active duty on 3 April 1968. On 14 January 1969, SM received non-judicial punishment (NJP) for four days unauthorized absence (UA). On 12 April 1969, he received a special evaluation due to incompetency in performance. Administrative remarks on 18 April 1969, 21 April 1969, and 18 May 1969 indicate SM had potential to perform well but struggled to meet performance standards. On 9 January 1970, SM was notified that he was not recommended for reenlistment due to low performance marks. That same day, SM was released from active duty due to a reduction in force and assigned a General (Under Honorable Conditions) characterization of service. His final overall trait average (OTA) was 2.28.

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 in order to qualify SM for burial benefits

in Arlington National Cemetery. 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 SM performance, as evidenced by his NJP and overall poor performance, outweighed these mitigating factors. The Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board considered that there was no minimum OTA required for an Honorable discharge at the time of SM's service; however, the Board noted that his low OTA reflect the professional difficulties he experienced while serving and support a finding that significant negative aspects of his service outweighed the positive aspects. While the Board understands your desire to bury SM in Arlington National Cemetery, 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 SM's discharge and concluded that his misconduct and low evaluation marks clearly merited his discharge. 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. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Notwithstanding the Board's decision in your case, 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,

4/28/2025

