



[REDACTED]

[REDACTED]

[REDACTED]

This is in reference to your application for correction of the naval record of your late son (the "Service Member") pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of the Service Member'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.

The Service Member enlisted in the Navy after acknowledging pre-service marijuana use and commenced active duty on 21 August 1991. On 22 August 1991, he was issued an administrative remarks (Page 13) counseling concerning failure to disclose pre-service civil offenses during his application process and was advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 21 July 1992, the Service Member received non-judicial punishment (NJP) for four specifications of unauthorized absence (UA). He was issued Page 13 counseling concerning deficiencies in his performance and/or conduct and was again advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 23 November 1992, the Service Member received NJP for disobeying a lawful order from a Petty Officer. On 5 January 1993, he received NJP for

disobeying a lawful order from a commissioned officer. Consequently, on 10 January 1993, the Service Member was notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to pattern of misconduct and commission of a serious offense. He elected to consult with legal counsel, submitted a statement to the separation authority, and waived his right to have his case heard by an administrative discharge board. The separation authority directed an OTH discharge by reason of misconduct due to pattern of misconduct and the Service Member was so discharged on 16 March 1993.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to change the Service Member's discharge characterization of service and your contentions that his misconduct was mitigated by chronic traumatic encephalopathy (CTE) that he suffered from a motor vehicle accident prior to active duty and that you would like to bury him with military honors. Additionally, the Board noted you checked the "PTSD," "Mental Health," and "TBI" boxes on your application but chose not to respond to the 27 January 2025 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of the Service Member's death certificate you included with your DD Form 149 without any other additional documentation.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that the Service Member's misconduct, as evidenced by his NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and found that his conduct showed a complete disregard for military authority and regulations. The Board observed the Service Member 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. The Board also noted you provided no evidence, other than your statement, to substantiate Service Member's misconduct mitigation contentions. 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 Service Member'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 you 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.

Despite the Board decision not to grant relief in your case, the Board 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,

6/25/2025

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Executive Director

Signed by: ■