



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

██████████  
Docket No. 5141-25  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your husband'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 5 August 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 husband's 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 husband entered active duty with the Marine Corps on 25 August 1972. On 13 January 1973, he received non-judicial punishment (NJP) for disobeying a lawful order from a non-commissioned officer (NCO), using disrespectful language toward an NCO, and making a false official statement. On 22 February 1973, he received NJP for assaulting a Private First Class (PFC) and two specifications of wrongfully using provoking words or speech against the PFC.

Subsequently, your husband was formerly charged with sodomy and placed in pre-trial confinement. Your husband then submitted a written request to be discharged for the good of the service (GOS) to avoid trial by court-martial due to his misconduct. Prior to submitting this request, he conferred with a qualified military lawyer, at which time he was advised of his rights and warned of the probable adverse consequences of accepting such a discharge. His request was accepted and his commanding officer (CO) was directed to issue an Other Than Honorable (OTH) discharge for the GOS. On 7 May 1973, he was so discharged.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your husband's case in accordance with the Wilkie Memo.

These included, but were not limited to, your desire to upgrade your husband's discharge and contention that his discharge was unfair because he was retaliating after being assaulted by an NCO. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 and your husband's death certificate without any other additional documentation.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your husband's misconduct, as evidenced by his two NJPs and request for a GOS discharge, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and the negative impact his conduct had on the good order and discipline of his unit. Further, the Board noted that the misconduct that led to his 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. Therefore, the Board determined that the evidence of record did not demonstrate that he was not mentally responsible for his conduct or that he should not be held accountable for his actions. Finally, the Board considered that you provided no evidence, other than your statement, to substantiate your contention that his discharge was unfair or that he was acting in self-defense when he threatened and assaulted the PFC. Regardless, the Board noted your husband was ultimately discharged for a separate, more serious offense that was unrelated to his assault offense.

As a result, the Board determined that there was no impropriety or inequity in your husband's discharge and concluded that his misconduct and disregard for good order and discipline clearly merited his discharge. While the Board offered its condolences for the death of your husband, 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.

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,

8/20/2025

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