



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

██████████
Docket No. 5240-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your spouse'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 25 November 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 spouse'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).

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 spouse entered active duty with the Navy on 14 January 1997. On 23 June 1999, a special court-martial (SPCM) convicted your husband of two specifications of wrongfully possessing doses of Lysergic Acid Diethylamides (LSD) and conspiring to wrongfully possess some amount of LSD. He was sentenced to confinement for 75 days, reduction to E-1, forfeiture of pay, and a Bad Conduct Discharge (BCD). However, the convening authority suspended the BCD for six months. Upon his release from confinement, your spouse was notified of pending administrative separation action by reason of misconduct due to commission of a serious offense and drug abuse.

After he elected to make a written statement, his commanding officer (CO) forwarded his package to the separation authority (SA) recommending his discharge with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation and your spouse was so discharged on 22 June 2000.

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 upgrade your spouse's discharge and contentions that his OTH discharge makes it difficult for you and your son to receive Department of Veterans Affairs benefits, he was suffering from depressing and anxiety when he passed, and his death was due to having an enlarged heart. You further contend he began acting erratic and having mood changes prior to his death, and he was a good person, husband and father. You also checked the "Other Mental Health" box on your application but did not respond to the Board's request for supporting evidence. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

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 SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of his misconduct and the fact it involved drug related offenses. The Board determined that illegal drug possession 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. Further, the Board found that his conduct showed a complete disregard for military authority and regulations. Additionally, 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. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board determined that the evidence of record did not demonstrate that your husband was not mentally responsible for his conduct or that he should not be held accountable for his actions.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your 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 you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigated evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

12/4/2025

