



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

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Docket No. 9077-25  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your brother's naval record pursuant to Title 10, United States Code, Section 1552. 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 9 March 2026. 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 brother's naval record, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. Your brother enlisted in the Navy and began a period of active duty on 16 December 1969. During his enlistment processing, he admitted to a preservice arrest for two counts of burglary in third degree, two counts of petty larceny, and possession of stolen property.
2. On 4 August 1972, your brother received nonjudicial punishment (NJP) for a period of unauthorized absence (UA).

3. On 2 October 1972, your brother submitted a statement in which he admitted the wrongful use of LSD while on leave from boot camp. He also admitted to taking mescaline twice a month between July and September 1970. Prior to that time, he stated he was smoking marijuana regularly. He further stated that he commenced daily marijuana use in October 1971 until the date of his statement, except for a period of five weeks when he stopped his drug use. During 1972, he admitted to smoking marijuana twice daily and claimed he would be intoxicated on days he did not have duty. He also admitted to taking "MDA" in August 1972 for approximately four or five days consecutively.

4. That same day, your brother requested a drug abuse exemption that was granted by his commanding officer. On 2 October 1972, your brother was evaluated by a medical officer and determined not to have a drug dependency.

5. On 15 November 1972, your brother was notified of the initiation of administrative separation proceedings by reason of unfitness due to his admission of unauthorized use of drugs-marijuana while on active duty and while assigned to the Drug Exemption Program. His commanding officer's comments state, "[Your brother] was granted an exemption for his admitted use of drugs on 2 October 1972. He has admitted to repeated use of marijuana and barbiturates for a period of about seven to ten days prior to reporting to this command on 8 November 1972. [Your brother] has also refused to become involved in the local drug rehabilitation program, which is in violation of the drug exemption program.

6. Subsequently, your brother decided to waive his procedural rights in exchange for being recommended for a General (Under Honorable Conditions) (GEN) discharge characterization of service. In his memorandum of agreement with his commanding officer, your brother acknowledged, "I understand a general discharge may deprive me of certain Veterans' benefits based upon my current period of active service and I may expect to encounter prejudice in civilian life in situations wherein the type of service rendered in any branch of the Armed Forces or the character of discharge received may have a bearing."

7. On 18 January 1973, pursuant to the agreement, his commanding officer recommended a GEN discharge characterization by reason of unfitness due to drug abuse. Ultimately, the separation authority approved the recommendation and, on 1 February 1973, your brother was so discharged.

In your application to this Board, you express a desire for your brother's discharge character of service be upgraded and contend that:

1. Your brother was discharged from the military with the understanding that he retained all his benefits.

2. You were unaware of any loss of privileges or benefits and do not possess your brother's military records,

3. Your brother exercised and received several veteran benefits.

4. You were informed that discharge code 384 prevents your brother from being buried at Arlington National Cemetery.
5. This punitive action is inconsistent with the explanation your brother gave regarding the circumstances of his discharge.
6. Your brother was separated from service after conflicts with and abusive petty officer.
7. The alleged abusive conduct by the petty officer caused irreparable damage to your brother's Navy career.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded your brother was appropriately processed for administrative separation based on his admission of extensive drug abuse. While the Board carefully considered your narrative of the reasons he provided for his separation, the Board observed his statement admitting to his drug abuse contradicts his post-service version of events. Therefore, the Board determined the presumption of regularity applies to your brother's administrative separation and no error exists with his record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your desire for an upgrade to your brother's characterization of service, your contentions regarding the circumstances of his separation, the totality of his service, his passing and your need for veterans' burial benefits, the non-violent nature of his misconduct, his relative youth and immaturity at the time of his misconduct, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, 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 determined the nature and frequency of your brother's admitted drug abuse was significant and likely had a negative effect on the good order and discipline of his unit. Further, the Board found that your brother's conduct showed a complete disregard for military authority and regulations. The Board observed he was given an opportunity to stop his drug abuse but chose to continue, which led to his GEN 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. Therefore, even taking into consideration all the mitigation factors in your brother's case, the Board found that his misconduct while on active duty outweighed the mitigation evidence offered. 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. While the Board considered your brother's passing and your need for benefits to address his burial, they determined the severity of his misconduct

outweighed any mitigation resulting from those factors. In the end, the Board acknowledged that flawless service is not required to receive an Honorable characterization of service, the gravity of your brother's admitted drug abuse led them to conclude that his service was not Honorable.

Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Finally, the Board considered your contention that your brother exercised his veterans' benefits during his lifetime. This Board has no cognizance over veterans' benefits granted by the Department of Veterans Affairs or other granting agencies. However, the Board noted that a GEN characterization of service does not disqualify a veterans from all benefits but does so when a fully Honorable characterization of service is required.

The Board passed their deepest condolences for your brother's passing.

You are entitled to have the Board reconsider its decision upon the 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,

3/25/2026

