



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 3467-01
7 November 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 November 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 6 April 1943 at age 17. On 25 October 1943 you were convicted by a summary court-martial of negligence of duty. The specification reads as follows:

... (That you) on or about October 12, 1943, been detailed to remove a set of twin .30 caliber machine guns from an SBD-4 airplane ...and to take said machine guns to the armory, well knowing that said machine guns could be loaded, did fail and neglect to examine the said machine guns, as it was his duty to do; the United States then being in a state of war.

The service record shows that you pled guilty and were sentenced to 10 days of solitary confinement on bread and water, with full ration every third day, and forfeiture of \$25 pay per month for two months. You then served in an excellent manner until you were honorably discharged on 20 March 1946.

You contend in your application that you were unjustly convicted, and request the return of your forfeitures and a formal apology.

You claim that you did not remove the machine guns from the aircraft and it was someone else's responsibility to ensure the machine guns were not loaded. You contend, in effect, that you were only court-martialed because someone had to be punished after another Marine was injured when the machine guns were accidentally fired.

The Board noted that given the passage of over 57 years since the events at issue, no other documentation concerning this matter is available. Since you plead guilty, the Board concluded that you were properly convicted. The Board also noted that the punishment you received was much less than the maximum authorized, and mitigating factors must have been considered. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously 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,

W. DEAN PFEIFFER
Executive Director