



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

ELP
Docket No. 4450-01
14 December 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your late father's naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Navy Records, sitting in executive session, considered your application on 12 December 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 father's 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.

The Board found that your father was inducted in the Navy on 4 November 1943 for two years at age 19. The record reflects that he was advanced to seaman first class and served without incident until 4 September 1944, when he received nonjudicial punishment (NJP) for breaking into another man's locker and taking approximately \$1.00.

Your father received a warning at a second NJP on 26 October 1944 for loss of government property. He served without further incident until 5 March 1945 when he was convicted by a summary court-martial of theft and sentenced to a bad conduct discharge. The facts and circumstances surrounding the theft are not on file in the record. Your father received the bad conduct discharge on 26 March 1945.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your father's youth and

immaturity, limited education, the fact that it has been more than 56 years since he was discharged, and your desire to have a service plaque for his grave. You claim that your father's discharge was the result of him striking a chief petty officer is not supported by the evidence of record. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your father's discharge given his record of two NJPs and a summary court-martial conviction in only 16 months of service. The Board noted that two of the disciplinary actions were for theft, apparently from fellow Sailors, a very serious offense. The fact that you desire to get a service plaque for his grave does not provide a valid basis for recharacterizing his service. His conviction and discharge were effected in accordance with applicable law and regulations then in effect, and the discharge appropriately characterizes his service. 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