



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

FC
Docket No: 01890-03
8 September 2003

[REDACTED]

[REDACTED]

This is in reference to your application on behalf of your late father for correction of his 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 4 September 2003. 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 late 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 commissioned in the Navy on 1 February 1957. The record reflects that he served well and was promoted to the rank of commander (CDR; O-5). He received numerous personal decorations that included the Distinguished Flying Cross, Air Medal, and Navy Commendation Medal with Combat "V."

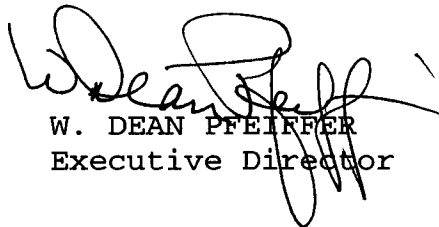
On 21 November 1974 your father submitted a request for resignation from the Navy to escape trial by court martial. The documents concerning the separation processing and the reason for his request are not in the record. On 20 December 1974 the Secretary of the Navy accepted your father's request and directed that he be discharged under other than honorable conditions for the good of the service. As a result of this action, he was spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

He was discharged under other than honorable conditions on 23 December 1974.

In its review of your application, the Board carefully weighed all potentially mitigating factors such as your late father's outstanding record, his service in Vietnam, and the length of time that has passed since he was discharged from the Navy. However, the Board found that these factors were not sufficient to warrant recharacterization of the under other than honorable conditions discharge given your father's request to resign for the good of the service to escape trial by court martial. The Board believed that considerable clemency was extended to your father's request for discharge to avoid trail by court martial was granted since, by this action, he escaped the possibility of confinement at hard labor and a punitive discharge. Further, The Board concluded that you father received the benefit of his bargain when his request for discharge was granted, and you should not be permitted to change it now. Finally, the Board had no way to determine the circumstances concerning the reason for his request for discharge and you have provided none. 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