



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

SJN
Docket No: 07888-07
3 July 2008

[REDACTED]

This is in reference to your application for correction of your late husband's 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 1 July 2008. 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 husband's naval record, and applicable statutes, regulations, and policies.

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


Your late husband enlisted in the Navy Reserve on 22 July 1943 at age 18. On 6 December 1943, he received nonjudicial punishment (NJP) for three days of unauthorized absence (UA). On 30 March 1944, he was convicted by general court-martial (GCM) of 63 days of UA. He was sentenced to a reduction in paygrade, confinement, and a bad conduct discharge (BCD). However, on 3 April 1944, your late husband's sentence to confinement was reduced, and the BCD was suspended provided he conducted himself in a satisfactory manner. On 3 September 1944, he was released from confinement and restored to full duty. On 6 December 1945, he received a second NJP for a brief period of UA. He received solitary confinement and restriction. On 16 March 1946, your late husband was released under honorable conditions at the expiration of his enlistment due to his GCM conviction.

The Board, in its review of your late husband's record and your application, carefully weighed all potentially mitigating factors, and your contention that he was discharged due to medical problems. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of his

discharge because of the frequency of his misconduct, as shown by the two NJP's and GCM conviction for a period of UA totaling over two months. The Board especially noted that your late husband was given an opportunity to earn a better characterization of service when the BCD was suspended. Concerning your contention, there is no evidence in the record to support it, and you submitted no such evidence. 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