



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

TJR
Docket No: 8098-07
3 October 2008

[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 Naval Records, sitting in executive session, considered your application on 1 October 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 father'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 father enlisted in the Navy on 10 July 1944 at age 17 and began a period of active duty on 20 July 1944. About two months later, on 27 September 1944, he was convicted by summary court-martial (SCM) of a six day period of unauthorized absence (UA).

On 2 January 1945 he was again convicted by SCM of a 10 day period of UA. On 28 March 1945 he received captain's mast (CM) for disobedience. Shortly thereafter, on 18 April 1945, he reported for duty aboard the USS LST 970. Four days later, on 21 April 1945, he was transferred from the LST 970. On 25 December 1945 he received CM for absence from his appointed place of duty.

On 18 January 1946 your father began a period of UA that was not terminated until 23 January 1946 when he was apprehended by civil authorities and held in confinement on charges of four counts of

armed robbery. On 18 March 1946 he was convicted by civil authorities of robbery and sentenced to an unspecified period of confinement.

Subsequently, he was notified of pending administrative separation action by reason of misconduct due to civil conviction. It appears that at that time he waived his right to consult with legal counsel and to present his case to an administrative discharge board (ADB). On 18 May 1946 his commanding officer recommended an undesirable discharge by reason of misconduct due to civil conviction. This recommendation also stated, in part, that it was not Navy policy to retain a thief. On 13 June 1946 the discharge authority approved this recommendation, and on 26 June 1946, while in custody of civil authorities, your father was so discharged.

The Board, in its review of your late father's entire record and your application, carefully weighed all potentially mitigating factors, such as his youth, limited education, post service conduct, and your assertions of his marital, family, financial, and emotional problems. It also considered your assertions that changes should be made to the record based on current standards, the harshness of your late father's discharge, and abuse of authority. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your late father's discharge because of the seriousness of his repetitive misconduct in both the military and civilian communities. Further, the record contains documented evidence which is contrary to your assertions. Finally, even if your late father was experiencing marital, family, financial, and emotional problems, these problems were not excuses for his misconduct, and as such disciplinary action and administrative discharge, even under current standards, are appropriate. 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