



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

CRS
Docket No: 3985-08
25 March 2009

[REDACTED]

This is in reference to your application for correction of your late father'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 29 January 2009. 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 enlisted in the Navy on 5 December 1952. He was convicted by summary court-martial on 31 July 1953 of a 10 day period of unauthorized absence (UA), and by general court-martial on 18 January 1954 of an 83 day period of UA, and failure to obey a lawful order.

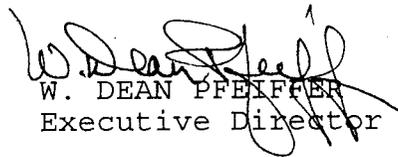
He was convicted by general court-martial on 28 July 1955 of a 185 day period of UA that was terminated by apprehension, desertion, and failure to obey a lawful order. The court sentenced him to confinement at hard labor for one year, forfeiture of all pay and allowances, reduction in rate, and a bad conduct discharge. He was separated from the Navy with a bad conduct discharge on 4 May 1956.

The Board did not accept your contention to the effect that your father's discharge should be changed based on the decision in the case of *Giles v Secretary of the Army*. As indicated in the documents you submitted, that case pertains to discharges based on compelled urinalysis testing administered for the sole purpose of identifying drug abusers. It has no relevance to the issue of the propriety of your father's discharge.

The Board concluded that a bad conduct discharge was appropriate in your father's case in view of his repeated acts of misconduct, and that you have not demonstrated that it would be in the interest of justice to upgrade the discharge. 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