



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

TJR  
Docket No: 5011-08  
5 March 2009



This is in reference to your application for correction of your late daughter'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 3 March 2009. The names and votes of the members of the panel will be furnished upon request. 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 daughter'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 daughter reenlisted in the Marine Corps on 13 March 1984 after two years and four months of prior honorable service. She continued to serve without disciplinary infraction until December 1986, when her urine sample tested positive for amphetamines and methamphetamines.

On 13 January 1987 your daughter began a period of unauthorized absence (UA) that was not terminated until 17 August 1987. During this period of UA she was also declared a deserter. On 18 August 1987 she signed an administrative remarks entry which confirmed her illegal usage of amphetamines and methamphetamines. She also submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for the foregoing period of UA totalling 216 days. Prior to submitting this request, she conferred with a qualified military lawyer at which time she was advised of her rights and warned of the probable adverse consequences of accepting such a discharge.

Subsequently, your daughter's request for an other than honorable discharge was granted and her commanding officer was directed to issue her an other than honorable discharge by reason of the good of the service. As a result of this action, she was spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 19 August 1987, while serving in the rank of lance corporal, your daughter was issued an other than honorable discharge.

The Board, in its review of your late daughter's entire record and your application, carefully weighed all potentially mitigating factors, such as her prior honorable service and your desire to upgrade her discharge and correct the record to show that she was advanced in rank to sergeant. It also considered your assertions that your late daughter was threatened, ignored by her superiors, worked undercover for the Navy, and was to be promoted in rank to sergeant. The Board further considered your assertions that she went UA as a means to protect herself after being threatened and that she was emotionally scarred by the mistreatment she received from the Marine Corps. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of her discharge because of the seriousness of her drug related misconduct and lengthy period of UA which resulted in her request for discharge to avoid trial by court-martial. Further, the Board believed that considerable clemency was extended to her when her request for discharge to avoid trial by court-martial was approved. Further, the Board concluded that she received the benefit of her bargain with the Marine Corps when her request for discharge was granted and as such, the discharge should not be changed. Finally, there is no evidence in the record, and you submitted none, to support your assertions. Accordingly, your application has been denied.

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