



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

SMS
Docket No: 6704-08
19 March 2009

[REDACTED]

[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 18 March 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 late husband'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.

On 25 August 1982, your late husband enlisted in the Navy at age 18. On 27 July 1983, he had nonjudicial punishment (NJP) for assault and was warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. He then served without incident until 12 May 1986, when his urinalysis tested positive for cocaine. On 21 May 1986, a substance abuse evaluation stated that he was not dependent on drugs. On 28 May 1986, he had NJP for use and possession of a controlled substance. On 29 May 1986, his urinalysis tested positive for marijuana.

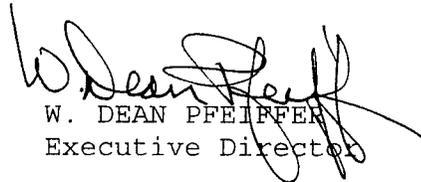
On 18 June 1986, your late husband's commanding officer initiated administrative separation by reason of misconduct due to drug abuse. In connection with this processing, he acknowledged that separation could result in an OTH discharge and waived the right to have his case heard by an administrative discharge board (ADB). On 18 June 1986, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to drug abuse. On 23 July 1986, he was so discharged.

The Board, in its review of your late husband's entire record and your application, carefully weighed all potential mitigation, such as

his youth and post service achievements. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of his discharge due to the seriousness of his misconduct. The Board also noted that he waived the right to have his case heard by an ADB, which was his best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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 late husband's 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