



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

REC  
Docket No: 08496-09  
10 June 2010

[REDACTED]

This is in reference to your application for correction of your late husband'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 9 June 2010. 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 husband enlisted in the Navy and began a period of active duty on 4 January 1963, at age 17. During his first enlistment he received ten nonjudicial punishments (NJP's) for various offenses. However, he received an honorable discharge. He reenlisted in the Navy on 19 September 1967, at age 22. On 2 April 1968, he was convicted by a summary court-martial (SCM) for being in an unauthorized absence (UA) status for five days, and disobeying a lawful order. He was sentenced to forfeitures of \$136.40, reduction in pay grade and 30 days confinement at hard labor. On 18 March 1969, he was convicted by special court-martial (SPCM) for assault and battery to a superior petty officer, unlawfully striking a petty officer, and two instances of wrongfully threatening to kill a superior petty officer. He was sentenced to forfeitures of \$180, and 60 days confinement at hard labor. On 7 April 1969, your husband received an NJP for disobeying a lawful order and being disrespectful in language. On 12 March 1970, he was again convicted by a SPCM for two instances of being UA which totaled three months, and 18 days, and missing the movement of the ship. He was sentenced to forfeitures of \$150, reduction in pay grade and 90 days

confinement at hard labor. On 19 June 1970, he received NJP for willfully disobeying a commissioned officer. On 3 September 1970, he received NJP for assault. On 23 October 1970, he received NJP for another period of UA. He was then notified of pending administrative separation processing with an other than honorable (OTH) discharge due to misconduct. He waived all of his procedural rights, including his right to an administrative discharge board (ADB). On 25 November 1970, he received the OTH discharge for misconduct.

The Board, in its review of your husband's record and your application, carefully weighed all potentially mitigating factors. 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 four NJP's, and convictions by SCM and two SPCM's. The Board also noted that when he was provided an opportunity to defend himself against these charges, he waived his right to present his case to an ADB, his best opportunity for retention or a better characterization of service. Accordingly, his application has been denied. The names and votes 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