



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

TAL
Docket No: 3737-10
14 January 2011

[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 12 January 2011. 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 deceased 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 Marine Corps and began a period of active duty on 11 May 1973 at age 18. On 16 July 1973, he received nonjudicial punishment (NJP) for failure to obey a lawful order given by a superior noncommissioned officer. On 2 October 1973, he received NJP for larceny of 10 eight track tapes, taken from a fellow sailor's wall locker, valued at \$70. On 21 November 1973, he received NJP for failure to obey a lawful order from a superior noncommissioned officer. On 6 December 1973, he received NJP for failure to obey a lawful order from a superior officer and disobeying a lawful written order by wrongfully possessing and drinking of alcoholic beverages in the barracks. On 29 March 1974, he was convicted by special court-martial (SPCM) of two instances of unauthorized absence (UA) from his unit totaling a period of 55 days. The sentence imposed was five months confinement, forfeiture of pay and a bad conduct discharge (BCD). On 24 July 1975, he received the BCD after appellate review was complete.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as his youth, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization

of his discharge given the seriousness of his misconduct that resulted in four NJPs, one SPCM conviction and a period of UA totaling 55 days. 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