



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD
ARLINGTON, VA 22204

SJN
Docket No: 03114-11
10 January 2012

[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 5 January 2012. 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 late father's naval record, and applicable statutes, regulations, and policies.

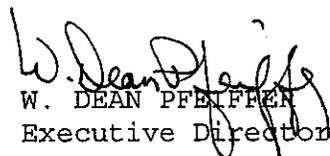
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 21 September 1956, your late father reenlisted in the Marine Corps after serving over three years of honorable service. On 25 January 1958, he received nonjudicial punishment (NJP) for creating a disturbance in a public place and was reduced in paygrade, which was suspended for a period of six months. Unfortunately, on 21 June 1957, the suspended reduction in paygrade was vacated due to his additional misconduct. On 23 September 1958, he began a period of unauthorized absence (UA) that lasted 85 days and ended with his apprehension on 17 December 1958. On 10 January 1958, he was convicted by special court-martial (SPCM) of 85 days of UA. He was sentenced to a forfeiture of pay, confinement at hard labor, and a bad conduct discharge (BCD). On 20 January 1958, the convening authority approved the sentence, but suspended the BCD for a period of six months. On 15 May 1958, he was released from confinement and returned to full duty. On 21 May 1958, he began a period of UA that lasted two days. On 2 July 1958, his commanding officer executed the suspended BCD which he received 16 July 1958.

The Board, in its review of his record and application, carefully weighed all potentially mitigating factors, such as his youth and your desire to upgrade his discharge. Nevertheless, based on the information currently contained in his record, the Board concluded these factors were not sufficient to warrant recharacterization of his discharge given his NJP, SPCM conviction for a period of UA lasting over two months, and the fact that he failed his opportunity for retention whereby he could have earned a better characterization of service when his BCD was suspended for six months. 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