



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 8207-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your father, █
naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of his naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 12 January 2024. The names and votes of the panel members 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 the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of his naval record, and applicable statutes, regulations, and policies.

Your father enlisted in the Navy and commenced active duty on 23 June 1941. On 4 June 1944, he reported on board █ (█), at Naval Air Base █. On 26 August 1944, a Commendation was issued to his Officer in Charge (OIC) regarding his unit's exemplary response to a plane crash on the atoll. On 3 September 1944, Commander, █, forwarded the Commendation to his OIC indicating that appropriate notation (of the Commendation) is being made in the jacket of each officer and in the service record of each man concerned. He was Honorably discharged on 4 May 1951.

Post-discharge, he wrote to the Military Personnel Records Center (MPRC) requesting the Asiatic-Pacific Campaign Medal, to which he was entitled, but had not yet received. On 6 July 1954, the MPRC replied, providing him a list of awards he was entitled to. This list did not include the Navy Cross.

On 8 February 2006, after your father's death, you made a request to Navy Personnel Command (NPC) Retired Records Section for all awards he was entitled to. On 5 July 2006, NPC provided a list of those awards. This list also did not include the Navy Cross.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your father's case. These included, but were not limited to, your desire that your father be awarded the Navy Cross, and your contentions that he assisted in saving lives in relation to the plane crash at Funafuti on 31 July 1944, and that a commendation was to be placed in his military record.

For equity consideration, the Board noted you provided your birth certificate, your father's death certificate, your letter explaining your application, various service record documents—including the document you identified as existing in error in your father's record, an aircraft incident report, and your father's Honorable discharge certificate. Thank you for bringing the errant document to our attention. It will be removed from your father's record.

As part of the Board's review process, the Navy Department Board of Decorations and Medals reviewed your contentions and the available records and issued an AO dated 26 October 2023, which was previously provided to you. Although you were afforded an opportunity to submit an AO rebuttal, you did not do so. The AO noted in pertinent part:

SECNAVINST 1650.1, Navy and Marine Corps Awards Manual, 18 Dec 1944, published the criteria for the Navy Cross (NX) during the Petitioner's period of active service: *the NX is awarded to "any person who, while serving in any capacity with the U. S. Navy, distinguishes himself by extraordinary heroism in operations against the enemy. To justify this award, the act must render the individual conspicuous among his comrades, bearing in mind the standards normally expected. Accumulation of minor acts of heroism does not justify this award..."*

The Petitioner's claim is without merit. There is no evidence he was ever nominated for the NX or any other personal decoration. Nor is there any evidence he ever committed an act of heroism in operations against the enemy...

(The) collective commendation, known at that time as a "well done" or "attaboy," offered to the Petitioner's commanding officer and his unit by Commander of Naval Air Transport Service, Pacific, a superior officer in the Petitioner's chain of command. Although that letter does not mention the Petitioner by name, the Petitioner's commanding officer had the commendation inserted into the Petitioner's individual service record. Although we have not researched the records of others in the unit, we can presume the commanding officer entered the same commendation in the service records of every other Sailor who participated in these actions. We can do so because the entry is titled "Unit Commendation." In other words, it did not single out the Petitioner for any specific act(s). In fact the commendation does not describe any specific act(s) by anyone in the unit.

Such commendations were common practice during WWII - we have found them in the service records of many other Sailors who served during that period. This type of commendation was not equivalent to a personal decoration or unit decoration, and it did not entitle anyone to wear any medal or ribbon on the uniform.

Finally, the type of actions described generally in the commendation are not consistent with the NX criteria...by law the NX is reserved for valor in combat with the enemy. It is not authorized for either heroism or meritorious achievement in connection with any type of rescue operation that does not involve engagement with the enemy.

Under the presumption of regularity in government affairs, we must presume the Petitioner's official service record to be accurate and complete, and his record appears to have been properly maintained in every respect. We must also presume that if he had performed an act of combat valor deserving of recognition, then his commanding officer would have nominated him for that type of recognition. The Petitioner failed to present evidence to overcome the presumption, or to substantiate his claim to the NX.

None of the foregoing is intended to diminish the value of the Petitioner's service to the Nation during a time of war. He is fully deserving of the recognition previously accorded him...

The AO concluded, “the Petitioner **is not entitled** to the NX, (we) found no evidence of material error or injustice. Therefore, we recommend BCNR deny relief. Were BCNR to grant relief in this case, such action would be inconsistent with the criteria and standards applied to all other Service Members.”

The Board concurred with the AO and determined that, although your father acted commendably, along with his unit, in response to the crash at Funafuti, there is no evidence of material error or injustice. For the reasons outlined in the AO above, the existence of the collective commendation in your father’s record—which he, along with his shipmates, did earn and deserve, and is not by this decision diminished—does not entitle him to the Navy Cross.

While the Board carefully considered the evidence you submitted and commends your father’s sacrifice, the sacrifice of his entire family, and his Honorable service to his nation in a time of war, the Board did not find evidence warranting issuance of the Navy Cross, or of an error or injustice that warrants granting you the relief you requested. Accordingly, unfortunately, given the totality of the circumstances, the Board determined that your request does not merit relief. Again, this decision in no way diminishes from your father’s invaluable and selfless contribution to our nation. Each citizen today owes him, and his fellow World War II veterans, a debt that cannot be repaid. The Board also commends you for your effort, and for your care for your father and his legacy, clearly demonstrated in this application.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

1/23/2024

