



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2498-99

24 August 1999

[REDACTED]

Dear [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 10 August 1999. 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.

The Board found your late husband enlisted in the Navy on 30 December 1941 at the age of 17. His record reflects that on 13 May 1942 he was convicted by summary court-martial (SCM) of unauthorized possession of another person's property and was sentenced to 30 days confinement and forfeitures totalling \$28.80. Approximately three months later, on 22 August 1942, he received captain's mast (CM) for gambling and was awarded restriction for 30 days. On 23 June and again on 27 July 1944 he received CM for conduct prejudicial to good order, incompetency in his rating, and disrespect.

His record also reflects that on 14 May 1945 he was convicted by SCM of the attempted theft of gasoline, trespassing, possession of two each liberty and two identification cards, and being out of uniform. He was sentenced to forfeitures totalling \$234 and a bad conduct discharge (BCD). However, the BCD was suspended for six months. About a month later, on 25 June 1945, he received CM for illegal possession of another person's clothing. At this time the BCD was ordered executed. On 23 October 1945 he received the BCD.

The Board, in its review of your late husband's entire record and your application, carefully considered all mitigating factors, such as his youth and immaturity. The Board also considered your contention that you would like your late husband's discharge upgraded. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of his discharge given the serious nature of his frequent wartime misconduct. The Board also noted that the BCD was suspended, this giving him an opportunity to earn a better discharge. However, he continued to commit offenses, and the discharge was ordered executed. Given all the circumstances of his case the Board concluded his 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 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