

DEPARTMENT OF THE NAVY

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

CRS
Docket No: 7427-00
3 April 2001



Dear

This is in reference to your application for correction of your 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 3 April 2001. 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 naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Awards Branch, Headquarters Marine Corps, dated 9 January 2001, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. 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

Enclosure



DEPARTMENT OF THE NAVY HEADQUARTERS UNITED STATES MARINE CORPS 3280 RUSSELL ROAD QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1650 MMMA-3

JAN 9 2001

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)

Subj: REQUEST FOR ADVISORY OPINION(S) IN THE CASE OF

- 1. During the period he served in the Marine Corps, the Purple Heart was authorized for award to those who were wounded or injured as a direct result of action by an enemy of the United States or an opposing armed force of a foreign country in which the Armed Forces of the United States was engaged.
- 2. A review of his service and medical records, and the records at this Headquarters fails to reveal any documentation to substantiate his entitlement to the Purple Heart award. There is no evidence that he ever received any injuries to his legs. The only medical information was for treatment of a pre-existing condition of ear drainage.
- 3. Since there is no indication in his records that he was injured under conditions, which would qualify him for the Purple Heart award, regulations require that he obtain eyewitness statements. The eyewitness statements can be from the medical personnel who treated him or two other personnel who were present at the time he was injured. Statements should contain the time, place, medical attention received, and verification that the injury was a direct result of enemy action. If he can provide the above information, further consideration will be given to his request.
- 4. It should also be noted that a service-connected disability does not have to be the result of enemy action. Any injury sustained while on active duty, combat or otherwise, which results in some valid adjudicated disability, warrants appropriate medical care and, in some cases, compensation. Therefore, Veterans Administration medical claims are not acceptable, those doctors were not witness to the injuries.
- 5. This Headquarters does not maintain a listing of former Marines and their addresses. However, he may obtain a listing of the officers and enlisted Marines who were assigned to his

former unit by requesting copies of the unit rosters for the period in question from the following address:

Director
History and Museum Division
901 M Street, SE.
Washington Navy Yard, Building 58
Washington, DC 20374-0580

6. Should he be able to obtain the names of former Marines that were eyewitness to his injury, he may request assistance in locating them from the below listed organization:

Mail Call Editor
Leatherneck Magazine
P.O. Box 1977
Quantico, VA 22134
Telephone: 1-800-336-0291

E-Mail: leatherneck@mca-marines.org

- 7. I regret that a more favorable reply is not possible and I realize that the decision is not what he expected. In no way does it diminish his contributions to this Country and Corps.
- 8. A point of contact at MMMA is 784-9210.

