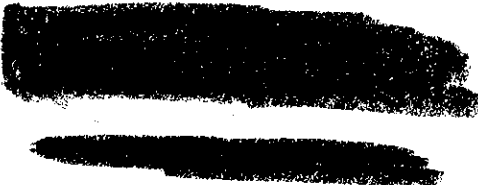




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 5822-09
1 September 2009



This is in reference to your request for further consideration 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 12 August 2009. 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 father's naval record and applicable statutes, regulations and policies.

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.

The Board found that your father enlisted in the Navy on 27 October 1941. He received nonjudicial punishment and was convicted by three summary courts-martial for offenses that included unauthorized absences, being under the influence of liquor, breaking restriction, disobedience of a lawful order, and being out of uniform.


A fourth summary court-martial convened on 28 July 1944 and found him guilty of being disrespectful in language. The court sentenced him to forfeiture of \$27.00 per month for six months, and a bad conduct discharge. He received the bad conduct discharge on 22 September 1944.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your father's youth at the time in question, good post service conduct, and the contentions that the discharge was too harsh and that his undiagnosed mental condition caused his misconduct. The Board concluded that those factors were insufficient to warrant recharacterization of his discharge, given the nature and severity of his offenses. Further, there is no credible evidence to show that he suffered from a serious mental disorder while in

the Navy. In addition, even if he had symptoms of a mental condition during his period of active duty, there is no indication in the record that he did not know right from wrong or was unable to adhere to the right. 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