



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

SJN
Docket No: 11524-10
17 August 2011

[REDACTED]

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This is in reference to your application for correction of your late father, Clement H. Voith'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 16 August 2011. 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.

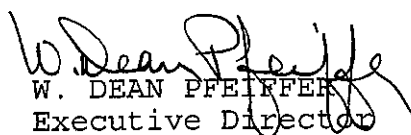
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

Your late father enlisted in the Navy and began a period of active duty on 10 January 1942. The Board found that he received three captain's masts (CM) for two days of unauthorized absence (UA), missing muster, and another period of UA. He was convicted by three summary courts-martial (SCM's) of three periods of UA totaling 28 days, and breaking restriction. Additionally, he was convicted by deck court (DC) of shirking duty. As a result of his last SCM, he was sentenced to a forfeiture of pay and a bad conduct discharge (BCD). However, the BCD was suspended for a period of six months of probation. On 9 September 1944, he began another period of UA that lasted 30 days, ending on 9 October 1944. On 10 October 1944, his probation was terminated and the BCD was ordered to be executed. He received the BCD on 12 October 1944 after appellate review was completed.

The Board, in its review of application and late father's record, 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 misconduct, which happened during World War II, that resulted in DC, conviction by three SCM's, and four CM's, one of which occurred while on probation after his last SCM. 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