



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

SJN
Docket No: 00575-12
7 November 2012



This is in reference to your application for correction of your late husband'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 6 November 2012. 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 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.

Your late husband enlisted in the Marine Corps and began a period of active duty on 2 November 1967. The Board found that he received three nonjudicial punishments (NJP's) for two instances of disobedience, dereliction of duty, having an unclean uniform, and three days of unauthorized absence (UA). On 7 June 1969, he was convicted by summary court-martial (SCM) of having an unclean rifle. He was sentenced to a forfeiture of pay and restriction. On 11 June 1970, he was convicted by special court-martial (SPCM) of two periods of UA totaling 115 days, the last period ending in his apprehension. He was sentenced to a period of confinement at hard labor and a bad conduct discharge (BCD). On 26 August 1970, he waived his right to request restoration to full duty status, in part, that he requested discharge due to family matters, to start a better life, to help himself and his family, and that the Marine Corps would benefit. On 14 September 1970, he received a fourth NJP for one day of UA. On 30 September 1970, he received the BCD after appellate review was completed.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as his youth, Vietnam combat service, post service accomplishments, character letters, 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 four NJP's, and SCM and SPCM convictions for periods of UA totaling over three months. 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,



for ROBERT D. ZSALMAN
Acting Executive Director