



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

TJR
Docket No: 4847-98
22 July 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your father'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 13 July 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 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.

The Board found your father enlisted in the Marine Corps Reserve on 14 September 1942. His record reflects that he served for two years without disciplinary incident but on 16 November 1944 he was apprehended by civil authorities and indicted for murder in the first degree. However, the charge was later reduced to manslaughter and, on 19 February 1945, he pled guilty and was convicted of that offense and, sentenced to confinement at hard labor for not less than seven and a half years and no more than 15 years. Subsequently, your father was notified of administrative separation action by reason of misconduct due to civil conviction. On 17 March 1945 the discharge authority directed an undesirable discharge by reason of civil conviction. On 30 March 1945 your father was so separated.

The Board, in its review of your father's entire record and application, carefully weighed all potentially mitigating factors, such as his period of good service and your contention that you would his discharge upgraded because he served his country honorably and with loyalty. The Board also considered

your contention that your father made a mistake by committing a crime of passion but he spent seven years in prison, which is punishment enough. However, the Board concluded these factors were not sufficient to warrant recharacterization of your father's discharge given the serious nature of his misconduct in the civilian community. Given all the circumstances of his case, the Board concluded your father's discharge was proper 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