



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 8503-97

30 June 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your late husband'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 22 June 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 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 late husband enlisted in the Navy on 16 September 1955 at the age of 17. His record reflects that on 15 June 1956 he was convicted by summary court-martial (SCM) of larceny and failure to obey a lawful order. Shortly thereafter, on 20 August 1956, he was convicted by special court-martial (SPCM) of larceny. Approximately a year later, on 12 August 1957, he was convicted by civil authorities of forgery and sentenced to confinement for nine months. On 7 November 1957 your late husband was notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel, he elected to present his case to an administrative discharge board (ADB). An ADB recommended your late husband be issued an other than honorable discharge by reason of misconduct. On 19 November 1957 his commanding officer also recommended that he be issued an other than honorable discharge by reason of misconduct. On 9 December 1957 the discharge authority approved the foregoing recommendations and directed an other than honorable discharge. On 27 December 1957 your late husband was so separated.

The Board, in its review of your late husband's entire record and your application, carefully weighed all potentially mitigating factors, such as your late husband's youth and immaturity and your contention that you would like his discharge upgraded so that you may obtain some sort of financial benefits. The Board also considered your contention that your late husband drank a lot, but straightened out once the two of you were married. However, the Board concluded these factors were not sufficient to warrant recharacterization of your husband's discharge given the serious nature of his frequent misconduct in both the military and civilian communities. Given all the circumstances of his case, the Board concluded his 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