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

TRG
Docket No: 5509-98
8 July 1999

[redacted]

Dear [redacted]

This is in reference to your application for correction of your late brother'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 7 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 late brother'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 brother enlisted in the Naval Reserve on 1 August 1942 at age 17. Prior to the offenses for which he received the bad conduct discharge, he received three nonjudicial punishments and was convicted by a deck court and a general court-martial. His offenses were five periods of unauthorized absence totaling about 26 days. The sentence of the general court-martial included a bad conduct discharge, but it was suspended for a probationary period.

A second general court-martial convened on 10 November 1944 and convicted him of an unauthorized absence of about one day and missing ship's movement. The sentence of the court included a reduction to apprentice seaman, forfeiture of all pay and allowances, confinement at hard labor for 12 months and a bad conduct discharge. The discharge was again suspended for a probationary period of six months and he was restored to duty on 14 February 1945. Subsequently, he was an unauthorized absentee from 19 February to 26 February 1945 and the suspended discharge was ordered executed. The bad conduct discharge was issued on 27 November 1945.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as his youth, the character references you submitted and your contention that alcohol abuse led to his misconduct. The Board found that these factors and contentions were not sufficient to warrant recharacterization of his discharge given the frequency of his wartime misconduct and especially his violation of probation. The Board concluded that the discharge was proper as issued 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