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

TJR
Docket No: 8805-98
15 July 1999

[redacted]

Dear [redacted]

This is in reference to your application for correction of your 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 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 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 you enlisted in the Navy on 8 November 1968 at the age of 18. Your record reflects that on 12 February 1969 you received nonjudicial punishment (NJP) for absence from your appointed place of duty. The punishment imposed was correctional custody for three days. On 24 September 1969 you were convicted by special court-martial (SPCM) of a 40 day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for two months, forfeitures totalling $160, and reduction to paygrade E-1.

Your record further reflects that on 22 January 1970 you were convicted by summary court-martial (SCM) of a 13 day period of UA. You were sentenced to forfeitures totalling $50 and reduction to paygrade E-1. Shortly thereafter, on 4 March 1970, you were convicted by SPCM of an 18 day period of UA. You were sentenced to confinement at hard labor for a month and forfeitures totalling $70. On 10 March 1970 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with

civilian or military authorities. At this time you waived your rights to consult with legal counsel and to present your case to an administrative separation board. On 31 March 1970 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct. Subsequently, the discharge authority approved the foregoing recommendation and directed an other than honorable discharge. On 22 April 1970 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. The Board further considered your contention that your benefits were arbitrarily taken away. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent and lengthy periods of UA from the Navy which resulted in three court-martial convictions. Given all the circumstances of your case, the Board concluded your 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