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

TRG
Docket No: 999-98
23 June 1999

[redacted]

Dear [redacted]

This is in reference to your application for correction of your 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 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 24 March 1943. At that time, you had completed six years of education and attained a GCT score of 37, which placed you in Mental Group V. The record shows that your mother certified that you were born on 11 July 1925 and were 17 years old.

Sometime in May or June 1943 you submitted a birth certificate showing that you were born 11 July 1926. Since you were only 16 years old, you requested discharge from the Naval Reserve. About the time you submitted the birth certificate, on 13 June 1943 you began a period of unauthorized absence which lasted until 6 July 1943. Apparently, no action was taken on your request for discharge because of the unauthorized absence and because even with the new date of birth, you would have been 17 years old on 11 July 1943.

The record shows that prior to the offenses for which you received the bad conduct discharge you received nonjudicial punishment on one occasion and were convicted by two deck courts and two summary courts-martial. Your offenses were three periods of unauthorized absence totaling about 52 days, including the absence from 13 July to 6 July 1943; possession of another

sailor's liberty card; and improperly refusing to answer questions.

A general court-martial convened on 21 July 1944 and convicted you of an unauthorized absence of about 12 days and missing ship's movement. The court sentenced you, as mitigated, to reduction to apprentice seaman, forfeiture of all pay and allowances, confinement at hard labor and a bad conduct discharge. The discharge was suspended for a probationary period of six months and you were restored to duty on 1 April 1945. Subsequently, you were an unauthorized absentee on two occasions totaling about 10 days and the suspended discharge was ordered executed. The bad conduct discharge was issued on 18 May 1945.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education, low score on the aptitude test and your contention that you could not adjust after your brother was killed in action. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your repeated misconduct, general court-martial conviction for serious wartime offenses, and especially your violation of probation. There is nothing in your record, and you have submitted nothing, to show that you had a brother who was killed in action. However, even if you did, the Board believed that this factor did not excuse your misconduct. The Board concluded that your 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