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

TJR
Docket No: 1099-99
22 July 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 20 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 husband'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 husband enlisted in the Marine Corps on 2 March 1966 at the age of 18. His record reflects that on 14 March 1966 he received nonjudicial punishment (NJP) for a day of unauthorized absence (UA). The punishment imposed was correctional custody for seven days. On 19 July 1967 he received his second NJP for absence from his appointed place of duty. The punishment imposed was forfeitures totalling $40 and extra duty for 14 days.

Your husband's record further reflects that on 26 February 1968 he was convicted by summary court-martial (SCM) of two periods of UA totalling 43 days and failure to obey a lawful order. He was sentenced to forfeitures totalling $65 and extra duty and restriction for 30 days. On 23 October 1968 he was convicted by special court-martial (SPCM) of three periods of UA totalling 79 days, failure to obey a lawful order, and breaking restriction. He was sentenced to reduction to paygrade E-1, confinement at hard labor for six months, and forfeitures totalling $180.

On 8 April 1969 your husband was notified of pending administrative separation action by reason of unfitness. On 10 April 1969 he was convicted by SCM of a five day period of UA and sentenced to confinement at hard labor for 15 days, restriction for 30 days, and forfeitures totalling $50. The restriction and forfeitures were suspended for six months. On 22 April 1969, after consulting with legal counsel, your husband submitted a written request for immediate execution of the discharge. His request stated, in part, as follows:

> In regards to undesirable discharge that has been recommended to me, I feel that it would be better for both the Marine Corps and myself if I can get it.... I want out so bad that I will keep on purposely doing wrong until I get discharged from the Marine Corps.... If I can't get the undesirable, I guess I can settle for the BCD (bad conduct discharge).

On 23 April 1969 the commanding officer recommended your husband be issued an undesirable discharge by reason of unfitness. Subsequently, the discharge authority approved the foregoing recommendation and directed the commanding officer to issue an undesirable discharge. On 25 June 1969, while in absentia, your husband was so discharged.

The Board, in its review of your husband's entire record and application carefully weighed all potentially mitigating factors, such as his youth and immaturity, record of promotions, Vietnam service, and post service conduct. The Board further considered your contention that you would like his discharge upgraded and noted the character reference letters provided in support of his application. However, the Board concluded these factors were not sufficient to warrant recharacterization of his discharge given the serious nature of his frequent and lengthy periods of UA from the Marine Corps, which resulted in two NJPs and three court-martial convictions, and especially his request for immediate execution of the administrative discharge. Given the circumstances of his case the Board concluded his 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