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

BAN
Docket No: 12239-08
4 November 2009

[redacted]

[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 4 November 2009. 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.

You enlisted in the Marine Corps on 17 January 1951, and served without disciplinary incident until 8 June 1951, when you were convicted at a summary court-martial (SCM) for an unauthorized absence (UA) in excess of 13 days.

Shortly thereafter, you received the following disciplinary actions: on 7 March 1952, you were convicted at a SCM for disrespect toward a superior commissioned officer; on 19 March 1952, you were convicted at a SCM for UA; and on 9 December 1952, you were convicted at a special court-martial (SPCM) for willfully disobeying a senior noncommissioned officer, UA, disrespect toward a superior commissioned officer, and failure to obey a lawful order, and received a bad conduct discharge (BCD). After appellate review, on 16 April 1953, you were separated from the naval service with a BCD and an RE-4 reenlistment code due to

your conviction at a SPCM.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and belief that enough time has elapsed to warrant upgrading your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. Finally, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. 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