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

TJR
Docket No: 8841-98
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 9 December 1952 at the age of 20. Your record reflects that you served for nearly two years without disciplinary incident but on 23 December 1954 you were convicted by special court-martial (SPCM) of assault. You were sentenced to confinement at hard labor for six months and forfeitures totalling $420.

Your record further reflects that on 30 August 1955 you were again convicted by SPCM of assault and disrespect. You were sentenced to confinement at hard labor for six months and forfeitures totalling $468.

On 28 November 1956, at the expiration of your enlistment, you were issued a general discharge. At that time your average marks in conduct and proficiency were high enough to warrant an honorable discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and the honorable discharge certificate you received from the National Guard. The Board also considered your contention that the general discharge should be upgraded because it was unjust and erroneous. Further, you state that you served your required 4-year term, never received quarterly marks under 3.0, were promoted to paygrade E-4, and never received a reduction in paygrade. The Board noted your statement to the effect that draft dodgers and conscientious objectors received immunity or honorable discharges. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your misconduct which resulted in two court-martial convictions. Even though your conduct and proficiency averages were high enough for a fully honorable discharge, such a characterization was not authorized if an individual had been convicted by a general court-martial or more than one special court-martial during his/her current enlistment. Since you were convicted by two special courts-martial, an honorable discharge was not authorized. 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