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

TRG
Docket No: 347-97
4 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 2 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 Marine Corps on 13 July 1987 at age 19. Subsequently you completed training to be a military policeman. On 12 October 1989 you received nonjudicial punishment for using marijuana during the period from May to September 1989. The punishment imposed included a reduction in grade and forfeitures of pay. On 27 March 1990 you were convicted by a summary court-martial of conspiracy to purchase marijuana on or about 4 July 1989. The sentence of the court included another reduction in grade and a further forfeiture of pay.

Subsequently you were processed for an administrative discharge. An administrative discharge board met on 31 July 1990 and found that you had use marijuana and recommended discharge under other than honorable conditions. After review by the discharge authority this recommendation was approved. You were discharged under other than honorable conditions on 24 August 1990.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your period of good service and the documentation you submitted showing that you have been a good citizen since discharge. The Board also considered

your contention that your discharge was improper because you were the only one of a group of Marines involved in the use of marijuana who received a court-martial and was discharged under other than honorable conditions. You also contend that the offense for which you were convicted by summary court-martial was essentially the same offense for which you received the nonjudicial punishment. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your documented drug use. There is no documentation in the record, and you have submitted none, to show that you received disparate treatment from other Marines. Further, there is no explanation why you received a summary court-martial on 27 March 1990 for an offense which occurred in July 1989. However, it may be that the delay was caused by a continuing investigation. In appears that at about the time of the summary court-martial, you consulted with counsel concerning your legal difficulties. Therefore, it appears that if there was a problem with the charge and specification, it would have been an issue at that time. In addition, the ADB believed that your drug use supported discharge.

The Board believed that even if the summary court-martial was disregarded, the remaining nonjudicial punishment and the testimony concerning your drug abuse at the ADB were sufficient to support a discharge under other than honorable conditions.

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