



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 3735-99

28 September 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 22 September 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 reenlisted in the Marine Corps on 28 August 1981 after four years of prior active service. A special court-martial convened on 2 February 1983 and found you guilty of possession and distribution of marijuana. The court sentenced you to reduction in rate to E-1 and a bad conduct discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your good postservice conduct and the contention, in effect, that your special court-martial was improper and should be reviewed. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your the serious nature of your drug related misconduct, especially the distribution of marijuana. In this regard, the Board is prohibited by law from reviewing the findings of a court-martial and must restrict its review of determining if the sentence of the court-martial should be reduced as a matter of clemency. Based on the foregoing, the Board concluded that no change to the discharge 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

Copy to: Mr. Manuel D. Lopez