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

TJR
Docket No: 4126-01
21 November 2001

Dear ███████████

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 14 November 2001. 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 Marine Corps on 17 July 1972
at the age of 17. Your record reflects that on 1 August 1973 you
began a 118 day period of unauthorized absence (UA) that was not
terminated until you were apprehended by civil authorities on 26
November 1973. On 17 December 1973 you began a 253 day period of
UA that was not terminated until 26 August 1974 when you were
apprehended by civil authorities. At that time you were also
charged with breaking and entering.

On 17 October 1974 you submitted a written request for an
undesirable discharge in order to avoid trial by court-martial
for the foregoing two periods of UA totalling 371 days. Your
record shows that prior to submitting this request, you conferred
with a qualified military lawyer at which time you were advised
of your rights and warned of the probable adverse consequences of
accepting such a discharge. Subsequently, your request was
granted and your commanding officer was directed to issue you an
other than honorable discharge by reason of the good of the
service. As a result of this action, you were spared the stigma

of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 25 October 1974 you were issued an other than honorable discharged.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity, and your contention that you were UA because you need to care for your ill mother. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given the seriousness of your lengthy periods of UA, and your request for discharge to avoid trial for these offenses. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. Also, the Board noted that there is no evidence in your record, and you submitted none, to support your contentions. 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