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January 23, 2007

FOR IMMEDIATE RELEASE

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**COURT ORDERS MARINE CORPS TO DISCHARGE
CONSCIENTIOUS OBJECTOR**

Judge Finds Reservist's Application for Discharge Was Wrongfully Denied

San Diego Federal Court Judge Napoleon Jones has issued an order to the Marine Corps to discharge a San Diego area Marine Reservist who applied for conscientious objector status and was wrongfully denied. The Marine, James Janke, submitted a request for discharge in November, 2004, saying that his moral and ethical beliefs made him opposed to participation in war.

After completing a series of interviews and getting positive recommendations at every level, Janke's request was disapproved by the Commandant of the Marine Corps. Judge Jones found that the Commandant had no basis in fact for denying Janke's request.

Janke enlisted in the Marine Corps reserves in February 2001. According to Janke, after his father's death in 2003, he began to re-think his most basic values. As a result, he came to believe that participation in war is morally wrong.

In July 2004, Janke contacted Larry Christian of the San Diego Military Counseling Project. He said that Christian informed him that his beliefs qualified him for discharge as a conscientious objector and provided him with information regarding criteria and procedures for requesting a discharge. Janke proceeded to prepare and submit his request. Subsequently, Janke's unit was deployed to Iraq but he was left behind pending processing of his claim.

Janke's claim was evaluated and received positively by every reviewer up his chain of command, but when it finally got to Marine Corps headquarters, the Commandant rejected it.

Janke, represented by San Diego attorney Todd Samuels, filed a petition for a writ of habeas corpus in Federal Court claiming that the Commandant's decision lacked the requisite basis in fact to support rejecting his claim. Judge Jones agreed and issued an order to the Marine Corps to discharge Janke.

Larry Christian said, "This decision by Judge Jones is especially important for two reasons. First, because the Marine Corps has routinely denied discharge to conscientious objectors for spurious reasons, and now there is a court decision saying that they cannot continue to do so without challenge. The second is that, to my knowledge, this is the first habeas corpus petition for a military conscientious objector granted during the present war. It's a sign that the tide is turning and that opposition to war from inside the military is gaining legitimacy in the public eye."

Janke said, "It's taken a long time and a lot of work, but it was worth it. I want everyone in the service to know that people in the military can be discharged for being opposed to war. Even though the Marine Corps, especially, wants to pretend that conscientious objection doesn't exist, there are people like me who have become opposed to participation in war. It's important to know that there are people on the outside who will support us and help us, even to the point of going to Federal Court."

The government has 60 days from the date of Judge Jones decision to appeal to the Ninth Circuit Court of Appeals, but it is not known whether it will.