



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

JRE
Docket No: 3521-00
17 August 2001



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 9 August 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. In addition, the Board considered the advisory opinions furnished by the Head, Separation and Retirement Branch, Headquarters, USMC (HQMC) dated 20 September 2000, and the Assistant Head, Enlisted Assignment Branch, HQMC, undated, a copy of which is attached.

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. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. With regard to the issue of fitness for duty, it noted that you were found fit for duty by the Physical Evaluation Board on 25 January 1999, and you accepted that finding on 27 January 1999. The Board was not persuaded that the finding of fitness was erroneous or unjust. The fact that the Department of Veterans Affairs has awarded you disability rating is not probative of the existence of error or injustice, because that agency awards ratings without regard to the issue of fitness for military duty. 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

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

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MMSR-6J

20 Sep 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF FORMER [REDACTED]
[REDACTED]

Ref: (a) MMR Route Sheet, Docket No. 3521-00 of 13Sep00

1. Reference (a) requests an advisory opinion on former Sergeant [REDACTED] request to have his records corrected to show that he was not discharged from the Marine Corps on 27 May 1999, and to further show that he is retired by reason of physical disability.
2. [REDACTED] was discharged on 27 May 1999 after he was found fit for duty by the Physical Evaluation Board of the Naval Medical System. He states in his petition that he should have received disability rating by that Board subsequently retired by reason of physical disability.
3. [REDACTED] was discharged under proper authority in accordance with current regulations based on the PEB findings. We recommend that former Sergeant [REDACTED] petition and attached medical information be submitted to the Physical Evaluation Board for review and further advisory opinion.

[REDACTED]
Head, Separation and
Retirement Branch
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

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MMEA

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR DOCKET NO. 3521-00 CASE OF [REDACTED]

1. We have carefully reviewed [REDACTED] request for Medical Retirement from the United States Marine Corps.
2. [REDACTED] was disapproved for reenlistment on 22 March 1999 because he failed to meet three reenlistment prerequisites in accordance with MCO 1040.31, Enlisted Career Planning and Retention Manual. Specifically, [REDACTED] was convicted of Driving While Intoxicated (DWI), did not meet height/weight/ body fat standards as prescribed by MCO 6100.10, and did not have a current, passing Physical Fitness Test (PFT) score. Because Sergeant Nance failed to meet reenlistment prerequisites, he was authorized half separation pay in accordance with MCO P1900.16, Separation and Retirement Manual, and appropriately assigned reenlistment eligibility code RE-3P because he did not meet physical standards (not within weight standards).
3. MMEA concurs with the recommendation made by Mr. [REDACTED] Jr., Head, Separation and Retirement Branch.
4. Point of contact is Captain [REDACTED] at (703) 784-9238.

[REDACTED]

[REDACTED]

GS-13

ASSISTANT HEAD, ENLISTED ASSIGNMENT BRANCH