



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

ELP
Docket No. 2447-00
1 March 2001

[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 for the Board for Correction of Navy Records, sitting in executive session, considered your application on 22 February 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 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 25 February 1993 for four years as a SGT (E-5). At the time of your reenlistment, you had completed more than six years of active service.

The record reflects that you served without incident until 4 June 1993 when you were convicted by summary court-martial of making a false official statement and larceny of "BAQ, VHA, FSA, and Pro-Sep rations" on diverse occasions from 15 December 1989 to 16 October 1990. You were sentenced to reduction in rank to CPL (E-4), a forfeiture of \$950, and 57 days of restriction. Thereafter, you were formally counseled regarding your misconduct.

On 30 August 1994 you submitted a request for a humanitarian transfer to a non-deployable unit due to your wife's severe mental problems. You stated that you did not desire to be considered for a hardship discharge. The chain of command recommended that your request be approved. However, the

Commandant of the Marine Corps denied the request as not meeting the criteria for a humanitarian reassignment. You were advised that you could still request a hardship discharge.

On 1 February 1996 you were advanced again to SGT (E-5). On 31 December 1996, the CMC denied a request to extend your enlistment, authorized half-separation pay, and directed assignment of an RE-4 reenlistment code. You were honorably discharged on 24 February 1997 and assigned an RE-4 reenlistment code.

Regulations provide that each Marine must satisfy certain prerequisites for reenlistment. An individual must be recommended for reenlistment by the commanding officer, have no convictions by a court-martial, and have no known dependency or hardship that is not temporary in nature and that would cause the Marine to be non-deployable or not available for worldwide assignment. Regulations further require the assignment of an RE-4 reenlistment code to individuals who are not recommended for reenlistment. The Board noted that you desire to serve in the reserves but are unable to do so with an RE-4 reenlistment code. Although you were advanced again to SGT, it appeared to the Board that given your summary court-martial conviction you were no longer competitive with your peers for further advancement or assignments of increased responsibility. The Board concluded that your summary court-martial conviction and family problems which caused you to be nondeployable provided sufficient justification to warrant a non-recommendation for reenlistment and the CMC's assignment of an RE-4 reenlistment code. The fact that you desire to serve in the reserves does not provide a valid basis for changing a correctly assigned reenlistment code. 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