



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

FC  
Docket No: 10413-02  
12 May 2003



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 30 April 2003. 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 enlisted in the Marine Corps on 26 May 1993 at age 21. On 27 February 1996 you extended your enlistment for 17 months. On 24 October 1998 you reenlisted. On 6 July 2001 you reenlisted again.

In January 2002, you graduated from recruiting school. On 5 February 2002, you were interviewed by your officer-in-charge (OIC) after you made a suicidal statement to a prospective recruit. At that counseling session, you advised the OIC that you did not mean to make that statement and that you would attempt to do your job. On 5 March 2002 you were counseled concerning your refusal to perform duties as a recruiter. On 13 March 2002 you were counseled again on this issue.

On 19 April 2002 you were charged with willfully disobeying lawful orders to perform your job as a recruiter. On 20 May 2002 you requested administrative separation in lieu of trial by court martial. 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. On 30 May 2002 the commanding officer forwarded your request for discharge recommending approval with a characterization of service as other than honorable. On 4 June 2002 the staff judge advocate concurred with the commanding officer's recommendation. On 6 June 2002 the separation authority approved your request and directed that you be reduced to paygrade E-3 and separated with an other than honorable discharge for the good of the service. On 25 June 2002, you were so discharged. At that time, you were assigned a reenlistment code of RE-4.

On 7 November 2002, the Commandant of the Marine Corps (CMC) made a determination that your reenlistment code was properly assigned.

In its review of your case, The Board carefully weighed all potentially mitigating factors, such as your overall excellent record, and your desire to serve again. However, given your request for administrative discharge in lieu of trial by court martial, the Board concluded that these factors were not sufficient to warrant a change in your reenlistment code. In this regard, assignment of that code is required when an individual is discharged in lieu of trial. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board did not consider whether the characterization of service or reason for your separation should be changed, since you did not ask for such consideration and you have not exhausted your administrative remedy by applying to the Naval Discharge and Review Board (NDRB). You may apply to NDRB by submitting the attached DD Form 293.

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