



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

SMW
Docket No: 5385-07
31 January 2008

[REDACTED]

[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 30 January 2008. 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, advisory opinion, 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.

On 24 August 1998, you enlisted in the Marine Corps at age 25. On 31 August 1999, you had nonjudicial punishment (NJP) for two instances of disrespect, failure to obey a lawful order, and making a false official statement. You were also counseled regarding driving under the influence that occurred on 4 July 1999, at Atlantic Beach, and warned that further infractions could result in disciplinary action or administrative separation. On 28 October 1999, suspended punishment from the NJP was vacated due to unspecified misconduct. On 7 October 2001, you had NJP for failure to obey a lawful order. On 4 December 2001, you were counseled for being a liberty risk while on deployment and disobedience of a lawful order, and warned that further infractions could result in disciplinary action or administrative separation. On 4 December 2001, you were counseled again for disobedience of a lawful order and not

telling the truth to a commissioned officer, and warned that further infractions could result in disciplinary action or administrative separation. On 21 January and 23 February 2003, you had NJP again for unspecified offenses.

Based upon the information currently contained in your record, it appears that your commanding officer subsequently initiated administrative separation by reason of misconduct due to frequent discreditable involvement. In connection with this processing, you would have acknowledged that separation could result in an other than honorable (OTH) discharge and been given an opportunity to have your case heard by an administrative discharge board (ADB). The record shows that you waived the right to have your case heard by an ADB. Apparently, the separation authority approved the separation recommendation and directed an OTH discharge by reason of misconduct due to frequent discreditable involvement. On 7 May 2003, you were separated with an OTH discharge by reason of misconduct due to frequent discreditable involvement and assigned an RE-4 reenlistment code.

Regulations authorize assignment of an RE-4 reenlistment code to members who are separated due to misconduct, especially with an OTH characterization of service. Given your misconduct that resulted in four NJP's and since you have been treated no differently than others in your situation, the Board could not find an error or injustice in the assignment of the RE-4 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.

The Board noted that conflicting DD Form 214's are currently contained in your naval record. Therefore, additional research of historical records was conducted by Headquarters Marine Corps, which verified that you were issued an OTH discharge on

7 May 2003. Your naval record will be forwarded to Headquarters Marine Corps for administrative correction, specifically, removal of the erroneous DD Form 214.

Sincerely,


W. DEAN PFEIFFER
Executive Director