



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

CRS
Docket No: 2965-08
14 July 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 9 July 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 and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by Headquarters Marine Corps dated 24 April 2008, 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 opinion. 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
3000 MARINE CORPS PENTAGON
WASHINGTON, DC 20350-3000

IN REPLY REFER TO:

1070
JAM3
APR 24 2008

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR) APPLICATION
IN THE CASE OF CORPORAL [REDACTED]

Ref: (a) Manual For Courts-Martial (2008 Edition)
(b) JAGMAN

1. We are asked to provide an opinion on [REDACTED]
(hereinafter Applicant) request to remove his 15 August 2006
nonjudicial punishment (NJP) from his Service Record Book (SRB).

2. We recommend that Applicant's request for relief be denied.
Our analysis follows.

3. Background

a. On 14 August 2006, Applicant was attached to 3rd
Battalion, 6th Marines, 2nd Marine Division, Camp Lejeune, North
Carolina. Applicant was arrested by civilian authorities for
driving his car under the influence of alcohol.

b. On 15 August 2006, the Commanding Officer, Lima Company,
3/6, imposed NJP upon Applicant for underage drinking in
violation of Article 92, and driving under the influence of
alcohol, in violation of Article 111, Uniform Code of Military
Justice (UCMJ). Applicant received 14 days restriction, 14 days
extra duties, and forfeitures of \$333.00 pay per month for a
period of 1 month. The restriction and forfeitures were
suspended. Applicant did not appeal his NJP.

c. Applicant now requests that his NJP be removed from his
record stating that his driving while impaired charge was
dismissed by the civilian courts.

4. Analysis

a. As an initial observation, we note that no legal error
occurred in the imposition of NJP. Applicant has provided no
credible evidence that his NJP was unjust. The Applicant
voluntarily accepted NJP and was found guilty by his commander.
Based on the documentary evidence, Applicant was afforded his

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