



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

CRS
Docket No: 4034-08
25 June 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 25 June 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 enclosed comment from Headquarters Marine Corps, dated 19 March 2008.

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 opinion expressed in the comment. The Board noted that the comment is incorrect to the extent it refers to your general court-martial as a summary court-martial. 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

5730
MMER/RE
19 MAR 08

M&RA DEPARTMENT COMMENT on OLAC route sheet of 10 Mar 2008

Subj: CONGRINT; CASE OF [REDACTED]
SUBJ: RECODE

1. The following is provided for inclusion in your reply:

On February 1, 2007 [REDACTED] was dishonorably discharged as a result of a court-martial. At the time of separation, Mr. [REDACTED] was assigned a reenlistment code of RE-4, which indicates he was not recommended for reenlistment. A review of the administrative portion of his record indicates that he was counseled concerning not being recommended for promotion. The disciplinary portion of the record shows that [REDACTED] received one Summary Court-Martial under the Uniform Code of Military Justice for assaulting a staff noncommissioned officer by cutting him in the face with a dangerous weapon. After a review of all relevant information, we concur with the professional evaluation of [REDACTED] qualifications for reenlistment at the time of separation. Since his reenlistment code is correctly assigned, no change is warranted.

If [REDACTED] disagrees with the justification and rationale for this determination, he has the right to petition the Board for Correction of Naval Records to conduct an additional review. This may be done by submitting the enclosed Application for Correction of Military Record (DD Form 149) to the Chairman, Board for Correction of Naval Records, Department of the Navy, Washington, DC 20370-5100. To demonstrate to BCNR that he has exhausted all available administrative remedies, it is necessary that a copy of this Headquarters' response to Congressman Meeks be attached to his application.

2. Point of contact is Ms. Johnson at (703)784-9204.



FRANCES S. POLETO
By direction