



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

CRS
Docket No: 5165-08
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 (HQMC), dated 16 May 2008.

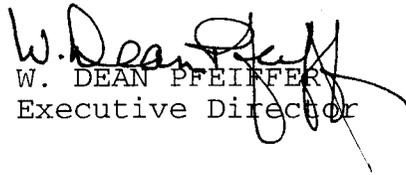
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection the Board substantially concurred with the opinion expressed in the HQMC comment. Accordingly, 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 your characterization of service or reason for separation should be changed, since you have not exhausted your administrative remedies by applying to the Naval Discharge 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

Enclosures

5730
MMER/RE
16 May 08

M&RA DEPARTMENT COMMENT on OLAC route sheet of 13 May 2008

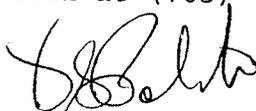
Subj: CONGRINT; CASE OF MR. [REDACTED]
SUBJ: RECODE

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

On August 30, 2000, [REDACTED] was discharged Under Other Than Honorable Conditions by reason of unsatisfactory participation in the ready reserve. At the time of separation, [REDACTED] was assigned a reenlistment code of RE-4, which indicates he was not recommended for reenlistment. Furthermore, he was assigned a Separation Code of HSG1 for failure to participate (Reserve not on active duty (board waved). It is also noted that on October 28, 1997 he signed an Acknowledgement of Statement of Understanding (SOU) upon enlistment in the Marine Corps Reserve. The SOU specifically addressed administrative action that will be taken should he fail to attend scheduled drills and training periods. After review of all relevant information, we concur with the professional evaluation of [REDACTED]'s qualifications for reenlistment at the time of separation. Since his reenlistment code is correctly assigned, no change is warranted. Once a code is correctly assigned it is not routinely changed or upgraded as a result of events that occur after separation or based merely on the passage of time.

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 Senator [REDACTED] be attached to this application.

2. Point of contract is Ms. Johnson at (703) 784-9205/04.



Frances S. Poletto
By direction

Encl:
(1) DD Form 149