



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

TJR
Docket No: 12456-08
4 August 2009

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 4 August 2009. The names and votes of the members of the panel will be furnished upon request. 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 the Marine Corps Performance Evaluation Review Branch (MMER/RE), a copy of which is attached.

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.

You enlisted in the Marine Corps in May 1999 at age 19 and began a period of active duty on 21 May 1999. About eight months later, on 18 January 2000, you were hospitalized due to depression and placed on suicide watch.

You served without disciplinary incident until 6 June 2000, when you received nonjudicial punishment (NJP) for an 11 day period of unauthorized absence (UA). On 18 August 2000 you received NJP for disrespect. Shortly thereafter, on 22 November 2000, you were convicted by summary court-martial (SCM) of absence from your appointed place of duty, a five day period of UA, two specifications of disrespect, failure to obey a lawful order, and wrongful appropriation of an automobile valued at \$16,000.

Subsequently, on 23 January 2001, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After consulting with legal counsel you waived your right to present your case to an administrative discharge board (ADB). On 27 February 2001 your commanding officer recommended an other than honorable discharge by reason of misconduct due to commission of a serious offense. On 8 March 2001 the discharge authority approved the foregoing recommendation, and on 21 March 2001, you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, desire to upgrade your discharge, and change your narrative reason for separation and reenlistment code so that you may reenlist in the armed forces. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or change your narrative reason for separation or reenlistment code because of the seriousness of your misconduct which resulted in two NJPs and a court-martial conviction. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied.

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
3280 RUSSELL ROAD
QUANTICO, VA 22134-5103

IN REPLY REFER TO:
1040
MMER/RE
17 Dec 08

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF FORMER [REDACTED]
[REDACTED] SUBJ: RE-CODE

Encl: (1) NavMC 118 (11)
(2) NavMC 118 (12)
(3) DD Form 2329
(4) DD Form 214
(5) CG, 1st MarDiv's ltr 1910/17 of 8 Mar 01
(6) [REDACTED] DD Form 149 of 16 Sep 08

1. [REDACTED]'s service record has been reviewed and it has been determined that at the time of separation he was assigned a reenlistment code of RE-4, which means not recommended for reenlistment. The reenlistment code was assigned based on administrative separation by reason of misconduct due to commission of a serious offense.
2. [REDACTED] was released from active service from the U.S. Marine Corps Under Other Than Honorable Conditions on March 21, 2001 for commission of a serious offense. The administrative portion of his record shows that he received numerous counseling addressing his sub-standard behavior. The disciplinary portion of his record shows that he received two Non-Judicial Punishment and one Summary Court-Martial for violating articles 86xx2 (unauthorized absence), 89 (disrespect towards a senior commissioned officer) 91x3 (insubordinate conduct towards NCO), and 121 (larceny) of the Uniform Code of Military Justice.
3. After a review of all relevant information, this Headquarters concurs in the professional evaluation of [REDACTED]'s qualifications for reenlistment at the time of separation. Once a code is correctly assigned it is not routinely changed or upgraded as a result of events that occur after separation or based on merely on the passage of time.
4. Enclosure (6) is returned for final action.

Frances S. Poletto
Head, Performance Evaluation
Review Branch
Manpower Management Division
By the direction of the Commandant
Of the Marine Corps