



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

RDZ:ecb
Docket No. 03607-09
9 July 2009

[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.

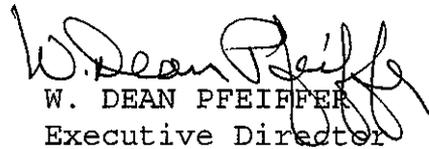
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 July 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary evidence 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 3 April 2009, 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. The Board did not consider whether your discharge should be upgraded since you must first apply to the Navy Discharge Review Board (NDRB). Enclosed is a DD Form 293 that you should use to apply to NDRB.

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
3280 RUSSELL ROAD
QUANTICO, VA 22134-5103

IN REPLY REFER TO:
1040
MMER/RE
3 Apr 09

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 (13)
(3) SPCMO NR # 1-00 of 24 May 00
(4) SPCMO SuppO NR # 01-1478 of 21 Nov 01
(5) DD Form 214
(6) NDRB of 14 Aug 01
(7) [REDACTED] DD Form 149 of 1 Jan 09

1. On November 21, 2001, [REDACTED] received a Bad Conduct Discharge as a result of his Special Court-Martial conviction on May 24, 2000. At the time of separation, [REDACTED] was assigned a reenlistment code of RE-4B, which indicates that there is a military or civilian in-service illegal drug involvement and there is no potential for further service. A review of the administrative portion of his record indicates that he was assigned a reenlistment code of RE-4 and he signed a page 11 entry acknowledging that his Commanding Officer informed him of the reason for the assignment. The disciplinary portion of the record shows that he received one Special Court-Martial for violating Articles 86 (unauthorized absence), 87 (missing movement), and 112a (wrongfully use, possession of controlled substance) of the Uniform Code of Military Justice.

2. 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. 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.

3. Enclosure (7) 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