



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

TJR
Docket No: 6929-09
23 July 2009



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 21 July 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.

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 accepted a commission in the Marine Corps on 10 December 1999 after nearly nine years of prior honorable service. You continued to honorably serve and were promoted to the rank of captain/(paygrade 0-3) on 1 July 2004.

You served without disciplinary incident until 25 May 2006, when you received nonjudicial punishment (NJP) for two specifications of disobedience, dereliction of duty by allowing a foreign national to access your government computer and account in March 2006 and on multiple occasions in October 2005, and conduct unbecoming an officer by delivering an offensive, cruel, and demeaning letter to a fellow Marine captain in February 2006. The punishment imposed was a letter of reprimand and a \$5,318 forfeiture of pay, which was subsequently suspended for six months.

Your record reflects that you submitted a written statement in which you requested an unqualified resignation of your commission in lieu of being processed for an administrative separation for cause as evidenced by the NJP. Your request also stated that you accepted full responsibility for your actions and realized that they were unacceptable, but requested a favorable endorsement to your resignation because you were in financial hardship. During the period from 26 to 29 May 2006 your chain-of-command provided favorable endorsements to your request and recommended that you be honorably discharged by reason of unacceptable conduct.

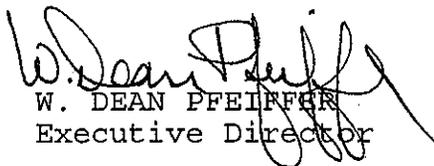
On 25 August 2006, the discharge authority, the Assistant Secretary of the Navy, Manpower and Reserve Affairs (ASN M&RA), approved the foregoing recommendation and directed your commanding officer to issue you an honorable discharge by reason of unacceptable conduct and to assign a separation code (SPD) of "BNC1" in accordance with the narrative reason for separation. On 30 September 2006 you received a Certificate of Release or Discharge from Active Duty which reflects you were honorably discharged by reason of unacceptable conduct and assigned a BNC1 SPD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service, desire to be reinstated to active duty, and the documentation from your counsel in support of your case. It also considered your counsel's request to change your reenlistment code so that you may be allowed to be reinstated. Nevertheless, the Board concluded these factors were not sufficient to warrant reinstatement to active duty. Further, the Board noted that you voluntarily submitted a request for resignation for your unacceptable conduct in lieu of a separation for cause as evidenced by your misconduct which resulted NJP. Finally, the Board noted that, serving as an officer in the Marine Corps, you were not assigned a reenlistment code, and therefore, your counsel's request is without merit. Accordingly, your application has been denied.

The Board also noted that you are entitled to submit the attached Application for the Review of Discharge or Dismissal from the Armed Forces of the United States (DD Form 293) to the Naval Council of Personnel Boards, Attention: Naval Discharge Review Board, 720 Kennon Street, S. E., Room 309, Washington Navy Yard, Washington, DC 20374-5023 for consideration of a change in your narrative reason for discharge.

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