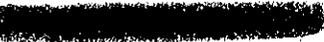




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 400-10
3 February 2010



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 3 February 2010. 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 comments furnished in a letter by Headquarters Marine Corps dated 7 August 2008, a copy of which is attached.

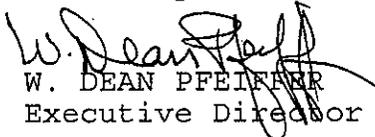
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection the Board substantially concurred with the comments contained in the letter. Accordingly, 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 did not request such consideration and you have not exhausted your administrative remedies by applying to the Naval Discharge Review Board (NDRB). You may do so by submitting the attached DD Form 293 to the NDRB.

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
7 Aug 08

M&RA DEPARTMENT COMMENT on OLAC route sheet of 24 July 2008

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

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

On July 12, 1997 [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 March 24, 1995 he signed for acknowledgement letter explaining his rights during separation proceedings. The letter clearly explained that he was recommended for administrative discharge for his continued unauthorized absence. The letter also addressed his characterization of service. 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 Congresswoman Virginia Foxx be attached to this application.

2. Point of contact is MSgt J. J. Castleberry at (703) 784-9205/04.


Frances S. Poletto
By direction

Encl: (1) DD Form 149