



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

SJN  
Docket No: 04938-11  
1 March 2012



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 28 February 2012. 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 enlisted in the Marine Corps and began a period of active duty on 14 June 1989. The Board found that the record reflects that on 27 October 1992, you received nonjudicial punishment (NJP) for assault. On 9 September 1993, you were convicted by special court-martial (SPCM) of assault. You were sentenced to 30 days restriction, a reduction in paygrade, and 30 days of hard labor. You remained on active duty until you were honorably discharged on 20 October 1993. At that time, it appears you were not recommended for reenlistment and assigned an RE-4 reentry code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and contention that you believe your SPCM was improper because it occurred after your expiration of enlistment. Nevertheless, the Board concluded these factors were not sufficient to warrant removing your SPCM from your record or changing your RE-4 reentry code given your misconduct that resulted in one NJP and conviction by SPCM of very serious offenses. In this regard, you were assigned the appropriate reentry code based on your circumstances. Concerning your contention, Marine Corps regulations state that your commanding officer had the authority to involuntarily extend you on active duty for the convenience of the government pending the resolution of legal action. Your SPCM did not occur after your expiration of enlistment. Your enlistment was extended on 13 May 1993, and upon completion of all legal action, you were discharged due to the expiration of your enlistment. Accordingly, your application has been denied.

With regard to corrections to your Certificate of Release or Discharge from Active Duty (DD Form 214), please be advised that your request is for an administrative correction which does not require action by this Board. You should contact Headquarters, United States Marine Corps, Deputy Chief of Staff for Manpower and Reserve Affairs (M&RA) Department, Separation Section (MMER), 3280 Russell Road, Quantico, VA 22134-5103 to request that an administrative correction be made to your DD Form 214.

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