



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

LCC:ddj
Docket No: 5583-98
23 March 1999

[REDACTED]

Dear [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 23 March 1999. 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 CMC memorandum 1001/1 MMEA-6 of 17 February 1999, 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. 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, VIRGINIA 22134-5103

IN REPLY REFER TO:
1001/1
MMEA-6
17 Feb 99

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

Subj: BCNR DOCKET NO. 05583-98 CASE OF [REDACTED]

1. We have reviewed [REDACTED] request and recommend that you deny his request for separation pay at the full rate. The following chronology pertains:

- On 14 March 1997, [REDACTED] requested reenlistment.

- On 7 April 1997, [REDACTED] request for reenlistment was returned with no action taken. His current enlistment contract was a probationary reenlistment contract. This type of contract is given to members who have experienced a career setback, and the observation contract provides for time to correct discrepancies. Specially, [REDACTED] received an adverse fitness report, disenrollment from Staff Noncommissioned Officer Course and nonjudicial punishment for violation of articles 112, drunk when reporting for temporary duty and 134, 2 counts of disorderly conduct, of the Uniform Code of Military Justice (UCMJ). He was instructed to resubmit his request when he was within 90 days of his expiration of active service (EAS).

- On 23 October 1997, [REDACTED] requested reenlistment.

- On 31 December 1997, [REDACTED] was denied further service. The basis for denial of further service was that [REDACTED] received his second adverse report during the probationary contract. This report cited his relief from his primary duty as Administrative Chief, due to his attitude and demonstrated lack of skills. He rendered himself ineligible for further service because he obtained a adverse fitness report while serving on a probationary reenlistment contract.

2. In denying [REDACTED] further service we assigned him a reenlistment eligibility code of RE-3C. This reenlistment code is warranted on the basis of his substandard performance/conduct. Additionally, [REDACTED] was authorized involuntary separation pay at the half rate. Per Marine Corps Order P1900.16E, Marine Corps Separation and Retirement Manual, and SECNAVINST 1900.7G, Separation Pay for Involuntary Separation from Active Duty, a Marine must be fully qualified for reenlistment in order to receive full separation

Subj: BCNR DOCKET NO. 05583-98 CASE OF [REDACTED]

pay. In [REDACTED] case, he did not qualify for reenlistment, based on his failure to maintain the performance and conduct standards expected of a staff noncommissioned officer of his experience, grade, age and maturity thus, he rendered himself unqualified for retention per MCO P1040.31G, Enlisted Career Planning and Retention Manual. Therefore, [REDACTED] was only entitled to separation pay at the one half rate.

3. Based on [REDACTED] substandard performance and conduct and in accordance with current orders and policies, he was not qualified for reenlistment. [REDACTED] was granted the correct amount of separation pay per the SECNAVINST. Therefore, we recommend that you deny [REDACTED] request for full separation pay.

[REDACTED]

COLONEL, U.S. MARINE CORPS
HEAD, ENLISTED ASSIGNMENT BRANCH
BY DIRECTION OF THE COMMANDANT OF THE MARINE CORPS