



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

Docket No: 7796-09
22 February 2010

[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 18 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 advisory opinion furnished by Headquarters Marine Corps dated 22 July 2009, a copy of which is attached, and your rebuttal.

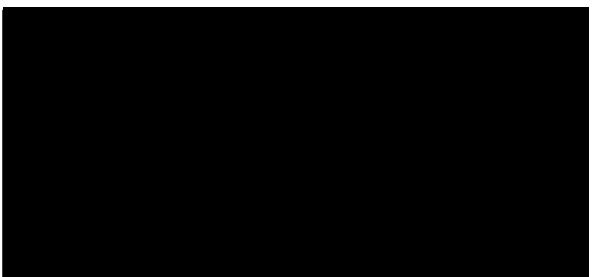
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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.

Enclosure





DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VA 22134-5103

IN REPLY REFER TO:
1040
MMER/RE

JUL 22 2009

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

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

SUBJ: RE-CODE [REDACTED]

- Encl: (1) NavMC 118 (11)
(2) SPCM Supplemental Order NR 05-1635 of 19 Sep 09
(4) SPCMO 43-04 of 21 Dec 04
(5) [REDACTED] appellate leave ltrs
(6) NDRB NR # [REDACTED] of 17 May 05
(7) DD Form 214
(8) [REDACTED] DD Form 149 of 24 Apr 09

1. On June 6, 2007, [REDACTED] received a Bad Conduct Discharge. At the time of separation, [REDACTED] was assigned a reenlistment code of RE-4, which indicates he was not recommended for reenlistment due to a Special Court-Martial conviction. There are no recorded counseling entries in [REDACTED] service record. The disciplinary portion of the record shows that he received one Special Court-Martial for violating Articles 80 (attempts), 121 (larceny) and 134 (general article) 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 merely on the passage of time.

3. Enclosure (8) is returned for final action.

