



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

TRG
Docket No: 1902-01
5 December 2001

[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 27 November 2001. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Marine Corps on 28 February 1997. You then served in an excellent manner for several years. However, the fitness report for the period 10 January to 5 June 2000 is adverse and states that you were convicted by a summary court-martial on 5 June 2000 of violations of Articles 92 and 125 of the Uniform Code of Military Justice. Although the summary court-martial is not file in your record, it appears that the charges resulted from an inappropriate relationship with a subordinate Marine, and you were reduced in grade from SGT (E-5) to CPL (E-4). The fitness report comments state, in part, as follows:

.... Conduct and performance of duty during this period was exemplary. Maintained (a) positive attitude and behavior throughout adjudication process. No further violations. Outstanding performance, demeanor, and potential for service; not qualified due to serious conduct violation.

You were honorably discharged on 31 October 2000 and were assigned an RE-4 reenlistment code. At that time, you had

completed seven years, five months and seven days of active service.

You contend in your application that the assignment of the RE-4 reenlistment code was unjust because it was based on one isolated incident, you were improperly convicted by the court-martial after the expiration of your enlistment, your outstanding service was not properly considered, and you were never counseled concerning the assignment of the RE-4 reenlistment code. The details of the offense of which you were convicted by the summary court-martial are not available. However, the court-martial proceedings would have been reviewed to confirm jurisdiction and the legal sufficiency of the proceedings. The Board believed that a summary court-martial conviction and the related adverse fitness report were sufficient to support the assignment of the RE-4 reenlistment code. Accordingly, the Board concluded that the RE-4 reenlistment code was proper as assigned and no change is warranted.

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