



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

TRG
Docket No: 7426-00
21 March 2001

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) HQMC Memo 1070 JAM4 of 13 Feb 01
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps filed enclosure (1) with this Board requesting that his record be corrected to show that on 22 December 1999 he was reduced to PFC (E-2) vice PVT (E-1).

2. The Board, consisting of Mr. Shy, Mr. Pfeiffer and Mr. Silberman, reviewed Petitioner's allegations of error and injustice on 20 March 2001 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner received nonjudicial punishment (NJP) on 22 December 1999 for use of cocaine. The punishment imposed included forfeitures of pay and a reduction in rank from LCPL (E-3) to PVT. Because of his drug use, Petitioner was processed for discharge. He was discharged under other than honorable conditions on 26 January 2000.

d. At enclosure (2) is an advisory opinion from Headquarters Marine Corps which states that Petitioner's commanding officer was not authorized to reduce him two pay grades and recommends that the record be corrected to show a reduction of one pay grade.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board is aware that commanding officers at NJP only have authority to reduce an individual by one pay grade. Therefore, the Board agrees with the recommendation contained in the advisory opinion that the record be corrected to show that on 22 December 1999 Petitioner was reduced from LCPL to PFC vice the reduction to PVT now of record.

RECOMMENDATION:

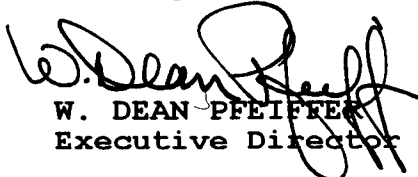
- a. That Petitioner's naval record be corrected to show that on 22 December 1999 he was reduced from LCPL to PFC vice the reduction to PVT now of record.
- b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
- c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director