



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

LCC:ddj
Docket No: 7615-01
27 November 2001



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. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1001 RAP of 7 November 2001, 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
RAP
7 Nov 01

RESERVE AFFAIRS DIVISION COMMENT on Tasker #20011029-01

Subj: APPLICATION FOR CORRECTION OF NAVAL RECORD; CASE OF
PRIVATE FIRST CLASS [REDACTED]

Ref: (a) MCO P1001R.1J

Encl: (1) Ltr from [REDACTED] Medical Center of
Aurora
(2) Reserve Absence Remarks
(3) Notification of Participation Requirements For
Mandatory Participants
(4) Unsatisfactory Participation Worksheet
(5) Battery A ltr 1900 CO dtd 25 Oct 99
(6) Administrative Reduction Order For
Unsatisfactory Participation
(7) Marine Forces Reserve ltr 1900 G-1P dtd 02 May
2000

1. PFC [REDACTED] cannot be excused for missed drills during calendar year 1999. Further PFC Salisbury is not eligible for reinstatement to the rank of Lance Corporal.

2. PFC [REDACTED] contends that due to injuries resulting from a snowmobile accident, he should be excused for IDTs he failed to perform during calendar year 1999.

3. PFC [REDACTED] was a SMCR member of Battery A, 1st Battalion, 14th Marines, in Aurora, Colorado. He was injured in a snowmobile accident on 28 Feb 99. Per enclosure (1) he was diagnosed with severe blunt chest injuries consisting of multiple rib fractures, blood in his chest cavity, and a collapsed lung. He was admitted to the Trauma Unit of the Aurora Medical Center the same day. He recovered enough to be discharged from the hospital in less than one week.

4. Reference (a) para 3105.6a required PFC [REDACTED] to notify the Medical Department Representative (MDR) or CO/OIC/I&I of his unit within five days after the injury. He did not make any attempt to contact the unit and inform them of the accident

Subj: APPLICATION FOR CORRECTION OF NAVAL RECORD; CASE OF
PRIVATE FIRST CLASS [REDACTED]
[REDACTED]

until late 1999, over six months later. Further he failed to report for mandatory IDTs during this period. Enclosure (2).

5. Per enclosures (3), (4), and (5), Personnel from Battery A attempted to contact PFC [REDACTED] on numerous occasions but we're unable to reach him. As a result, PFC [REDACTED] was declared to be an unsatisfactory participant and was administratively reduced from the rank of LCpl to PFC with an effective date of 31 Oct 99 as indicated in enclosure (6).

6. After consultation with PFC [REDACTED] upon his reduction in rank, Battery A submitted a medical discharge package to the Naval Bureau of Medicine & Surgery. On 02 May 00, Battery A was directed by Marine Forces Reserve to initiate discharge proceedings as a result of PFC [REDACTED] being found not physically qualified (NPQ) for further duty in the Marine Corps per enclosure (7).

7. PFC [REDACTED] could have been designated as Temporarily Not Physically Qualified (TPNQ) and therefore excused from performing the IDTs he missed. However, this designation requires that the Marine comply with the instructions of para 3105.6a, reference (a), before the scheduled IDTs take place. PFC Salisbury made no attempt to inform his unit of his medical condition until after receiving a notice of pending administrative reduction. Had he simply called his chain of command they would have taken an active interest in his welfare and helped him to request TPNQ status.

8. The fact that PFC [REDACTED] was later found to be NPQ during 2000, does not excuse his blatant disregard for communication and coordination with his unit during 1999. The unit and his commanding officer made persistent attempts to provide him the opportunity to comply with the applicable requirements based on his condition. The unit took the appropriate response when he failed to comply and his administrative reduction in rank should stand as executed.

9. The point of contact concerning this matter is Maj [REDACTED] at (703) 784-9136/40.

Subj: APPLICATION FOR CORRECTION OF NAVAL RECORD; CASE OF
PRIVATE FIRST CLASS (PFC) [REDACTED]
[REDACTED]



N. TRUJILLO
Head, Personnel Plans and
Policy Branch
Reserve Affairs Division
By direction