



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

CRS  
Docket No: 5050-02  
6 November 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 6 November 2002. 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 3 June 2002, 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  
2 NAVY ANNEX  
WASHINGTON, DC 20380-1775

IN REPLY REFER TO  
1070  
JAM9  
16 JUL 2002

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Subj: BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR) APPLICATION  
IN THE CASE OF [REDACTED]

1. We are asked to provide an opinion on Petitioner's request for the removal from his service record book (SRB) and official military personnel file (OMPF) of all entries related to the non-judicial punishment (NJP) he received on 21 October 1991.
2. We recommend that the requested relief be denied. Our analysis follows.
3. Background. On 21 October 1991, Petitioner, then a private first class, paygrade E-2, U.S. Marine Corps Reserve, received NJP for disrespect to a corporal, paygrade E-4, disobedience of a lawful order, and malingering in violation of Articles 91 and 134 of the Uniform Code of Military Justice (UCMJ). Petitioner disrespected a corporal by saying, "Leave him alone" and "If you want to kick someone's ass, kick mine," disobeyed an order to get back in formation, and misrepresented medical instructions to avoid full duty status while in the field. The NJP authority imposed a forfeiture of \$170.00 pay per month for 1 month, 14 days restriction, and 14 days extra duties. The NJP authority suspended the 14 days restriction and 14 days extra duties for a period of 6 months. Petitioner did not appeal his NJP.
4. Analysis. Petitioner contends that he thought the corporal whom he disrespected was beating a member of his squad therefore giving him the right to confront the corporal. Petitioner's claim is without merit. The burden is on the Petitioner to provide evidence that the record is erroneous. Petitioner has not offered any evidence that his NJP was unjust, that he was denied any rights, or was otherwise treated unfairly. We note that due to the fact that over 10 years has passed since Petitioner's NJP, documentary evidence of his NJP no longer exists. However, Petitioner admits in his petition that he made a mistake by confronting the corporal. Moreover, the NJP authority was in a better position to understand and weigh all relevant facts surrounding Petitioner's offenses before imposing

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IN THE CASE OF [REDACTED]

NJP. Finally, Petitioner was afforded the right to appeal his punishment but elected not to do so.

5. Conclusion. Accordingly, for the reasons noted, we recommend that the requested relief be denied.

[REDACTED]  
Head, Military Law Branch  
Judge Advocate Division