



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

ELP
Docket No. 1837-99
9 September 1999

[REDACTED]

Dear [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 1 September 1999. 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.

The Board found that you enlisted in the Marine Corps on 24 March 1997 for four years at age 21. Your recruit evaluation card noted that on 19 April 1997 you spoke with the chaplain about the difficulties you were having in dealing with your brother's suicide. It was further noted that you felt your personal history was too distracting and would keep you from completing recruit training. On 21 April 1997, you were referred to the mental health unit where you reported depression and prior problems. Your current problems were insomnia and extensive nightmares. You claimed that this had been an ongoing problem since 1993, and that you had been in therapy in 1996 and were placed on medication for depression.

The commanding officer was advised that your condition was disqualifying for active service and would have been disqualifying for enlistment had the undisclosed psychiatric

treatment been known at the time your enlistment. It was recommended that you be processed for fraudulent entry due to an undisclosed pre-service history of psychiatric treatment. It was also recommended that you seek mental health treatment after your discharge.

Thereafter, you were notified that you were being recommended for an entry level separation by reason of fraudulent entry due to failure to disclose the pre-service psychiatric treatment. You were advised of your procedural rights and declined to consult with counsel. On 29 April 1997, you received an uncharacterized entry level separation by reason of fraudulent entry and assigned an RE-3P reenlistment code.

The record further reflects that you reenlisted in the Marine Corps on 28 August 1998 for five years. The recruit evaluation card showed that through 5 October 1998 you were adjusting very well to recruit training, and showed leadership, teamwork, and physical courage in motivating and assisting other platoon members. However, on 15 October 1998, for reasons not shown in the record, you were returned from the mental health unit with a recommendation that you be dropped from recruit training due to a failure to adapt. You had been diagnosed with a nightmare disorder. The examining psychologist noted that you had significant psychological problems which you had hidden by your excellent performance. The psychologist noted that you had lost your brother to suicide a year ago and had not resolved this issue. It was opined that you were not stable enough to train, and an entry level separation was recommended by reason entry level performance and conduct due to a failure to adapt to the Marine Corps environment.

On the same date, comments on your recruit evaluation card noted that you were very uncomfortable on the rifle range and in handling the service rifle because your brother committed suicide with a gun. You disclosed that you had been previously discharged about 18 months ago from recruit training for fraudulent entry due to pre-service psychiatric treatment that related to the death of your brother. The commanding officer noted that you had been doing well up to this point, but apparently were unable to gain control over your fears. It was recommended that you not be allowed to return to recruit training in the future.

On 20 October 1998 you were notified that you were being recommended for separation by reason of entry level performance and conduct due to failure to adapt. You were advised of your procedural rights. You declined to consult with counsel or submit a written statement in rebuttal to the discharge.

On 21 October 1998, the discharge authority directed an uncharacterized entry level separation by reason of entry level

performance and conduct. You were so discharged on 26 October 1998 and assigned an RE-3F reenlistment code.

Regulations authorize the separation of individuals while in an entry level status, if the individual is unqualified for further service by reason of entry level performance and conduct, as evidenced by incapability, lack of reasonable effort, failure to adapt to the Marine Corps environment, or minor disciplinary infractions. Regulations also authorize the assignment of an RE-3F reenlistment code to individuals who fail to complete recruit training.

The Board noted the two letters you submitted from a doctor and a licensed social worker. You claim these letters support your contention of mental stability and do not diagnose any type of mental illness. The Board noted that the doctor's statement confirms that he treated you prior to service with anti-depressants and you responded well with no evidence of a mental disorder. The licensed social worker could only recall that you were diagnosed with an adjustment reaction. However, both supported your desire to further enlist.

The Board also noted your contention that the narrative reason and separation code were incorrectly assigned since your record indicates that your performance and conduct were nothing less than that expected of a top recruit whose motivation and enthusiasm never faded. You claim that had you kept your feelings to yourself, you would still be in the Marine Corps. You also assert that instead of working with you and giving you proper care, you were seen as a "bad apple" rather than the recruit who demonstrated excellence during her 40 days of training.

The Board was well aware of your otherwise excellent service through 15 October 1998 but noted you were uncomfortable on the rifle range. Recruit training officials have reason to be concerned when an individual discloses issues that may distract from their safety and focus on the rifle range. When you disclosed your discomfort in handling a weapon because of your brother's suicide, it was appropriate for officials to send you to the mental health unit for evaluation. A Marine must be able to use a weapon safely and efficiently. Because of the limited time available in recruit training, individuals must be able to cope with the rigors of that training despite personal problems. Otherwise, they become a liability to the unit and a risk to themselves and others. The Board believed that the nightmares and unresolved issues over your brother's suicide provided sufficient justification for a determination by medical authorities that you were unable to adapt to the Marine Corps environment. The Marine Corps does not have the medical resources in recruit training to treat individuals for mental

problems, even on a short term basis, and is not required to treat individuals with pre-existing conditions. The Board noted that an individual rarely gets a second chance at recruit training, and your separation on both occasions surrounded unresolved issues of your brother's suicide. It appeared to the Board that you did not learn from your previous experience or seek the treatment that was previously suggested. Your contention that you were not given a reasonable period to show improvement after counseling does not provide a basis for changing the reason for discharge. Despite your contentions to the contrary, the Board believed your discomfort on the rifle range and continuation of nightmares into your second enlistment provided sufficient basis for separation by reason of entry level performance and conduct. The reason for discharge was assigned in accordance with applicable regulations and the separation code "JGA1" was assigned based on that reason. The Board noted that you received the most favorable reenlistment code authorized by regulation and it may be waived to allow further enlistment. However, waiver authority rests with the Commandant of the Marine Corps or the branch of service where application for enlistment is made, and not with this Board. Based on the foregoing, the Board concluded that the reason for discharge, separation and reenlistment codes were proper and no changes are 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