



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

CRS  
Docket No: 6339-01  
27 February 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 27 February 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 11 October 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.

The Board noted that the language in the operational order does not specifically state that recruits were to carry sports drink and water. However, it was clear to the Board that you were briefed on this specific requirement on at least one occasion. 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  
JAM2/8

11 OCT 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL  
RECORDS

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

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 27 August 1998.

2. We recommend that Petitioner's request for relief be denied. Our analysis follows:

3. Background

a. Petitioner, a senior drill instructor, at Marine Corps Recruit Depot, Parris Island, on 6 August 1998 failed to obey the hydration orders of the commanding general and also the commanding officer (CO) which resulted in the aggravation of a recruit's heat injury. Specifically, the commanding general's order for hydration included carrying 1 canteen of sports drink and 1 canteen of water during the "Crucible" event. Additionally, the CO specifically told Petitioner never to put MRE salt in water for recruit consumption when a recruit began to display early signs of a heat related illness. Petitioner, nevertheless, rather than seek immediate proper medical attention for a recruit who was suffering from heat distress, decided to put MRE salt into the recruit's canteen, and had the recruit consume the water and continue the evolution.

b. Petitioner's actions amplified the recruit's condition, which led to hospitalization.

c. On 27 August 1998, Petitioner received battalion level NJP for two specification of failing to obey lawful orders in violation of Article 92 of the Uniform Code of Military Justice (UCMJ). Petitioner was awarded forfeiture of \$400.00 for 1 month. Petitioner appealed the NJP. His appeal was reviewed by the cognizant staff judge advocate and the appeal was ultimately



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recruits put salt in their canteens, conflicted with standard operating procedures, or the previously published operations order is without merit. Petitioner provides no evidence that previous operations orders addressed the issue of placing salt in recruit canteens. Moreover, all verbal orders from a superior officer of competent military authority supersede standard operating procedures and previously published operations orders. Petitioner was given a direct lawful order by his commanding officer and he failed to obey.

d. Petitioner's claim that he should be absolved of his failing to obey his commander's order not to put salt in recruit canteens because of a later order directing that a salt solution be placed in recruit "waterbolls" is also without merit. Military law does not provide relief for subordinates who disobey current orders because the subordinate believes that they have more complete information regarding, or a better understanding of, a particular situation. Unless an order is clearly illegal it must be obeyed. The order in Petitioner's case was undoubtedly a legal order.

5. Conclusion. No error occurred in the imposition of NJP. We recommend that the requested relief be denied.

[REDACTED]  
Head, Military Law Branch  
Judge Advocate Division