



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

TJR
Docket No: 6479-07
13 May 2008

[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 May 2008. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 26 September 1980 at age 17 and served without disciplinary incident until 6 October 1982, when you received nonjudicial punishment (NJP) for dereliction of duty.

During the period from 21 January to 23 November 1983 you received NJP on four more occasions for three specifications of sleeping on post, disobedience, being out of uniform, two specifications of breaking restriction, and dereliction of duty.

On 19 December 1983 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 22 December 1983 your commanding officer recommended separation under honorable conditions by

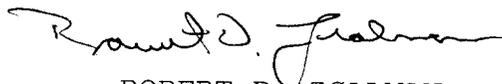
reason of misconduct due to a pattern of misconduct. However, on 21 January 1984 the discharge authority directed discharge under other than honorable conditions by reason of misconduct due to frequent involvement with military authorities, and on 9 January 1984 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, desire to have your discharge upgraded to honorable, and the passage of time. It also considered your assertion that you chose not to complete your enlistment and agreed to be discharged. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in five NJPs. Further, there is sufficient evidence in the record that is contrary to your assertion. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB and perhaps obtain a better characterization of service. 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,



ROBERT D. ZSALMAN
Acting Executive Director