



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

TJR
Docket No: 6493-07
13 May 2008

[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 reenlisted in the Marine Corps on 8 December 2000 after four years of prior honorable service. You continued to serve without disciplinary incident until 24 July 2001, when you received nonjudicial punishment (NJP) for two specifications of wrongful possession and use of Ecstasy. The punishment imposed was reduction to paygrade E-4 and a \$788 forfeiture of pay.

On 8 August 2001 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). However, after further consultation with legal counsel you elected to waive the ADB and submitted a written request for a general discharge. Subsequently, your commanding officer recommended an other than honorable discharge by reason of misconduct due to drug abuse. This recommendation stated in part that you had shown a severe

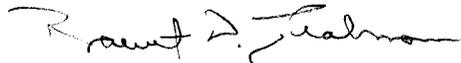
lack of maturity and professionalism as evidenced by your choice to use illegal drugs, and that this conduct was contrary to everything expected of a Marine. On 6 September 2001 the discharge authority directed discharge under other than honorable conditions by reason of drug abuse, and on 21 September 2001 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your period of prior honorable service, post service conduct, and desire to upgrade your discharge. It also considered the statement from the American Legion that was provided in support of your case. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your drug related misconduct. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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