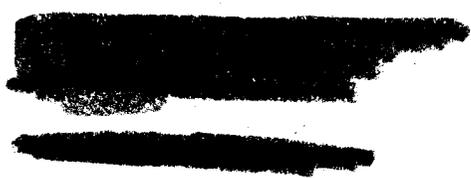




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 7006-07
13 May 2008



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 1 April 1987 at age 18 and served for 10 months without disciplinary incident. However, during the period from 19 February to 17 September 1987 you received nonjudicial punishment (NJP) on four occasions for two periods of absence from your appointed place of duty, two specifications of failure to obey a lawful order, two specifications of assault, one of which was with a dangerous weapon, insubordination, and two specifications of misbehavior as sentinel.

On 11 February 1988 you received NJP for a 39 day period of authorized absence (UA) and were awarded restriction and extra duty for 30 days, a \$376.35 forfeiture of pay, and detention of \$100. Shortly thereafter, on 24 February 1988, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). The next day, on 25 February 1988, you received your sixth NJP for two specifications of disobedience and malingering. The punishment imposed was restriction and extra duty for 10 days.

On 29 February 1988 your commanding officer recommended separation under honorable conditions by reason of misconduct due to commission of a serious offense. Subsequently, on 22 March 1988, the discharge authority directed discharge under other than honorable conditions by reason of misconduct, and on 5 April 1988 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 and assertion that you were told that your discharge could be upgraded so that you could obtain veterans' benefits. 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 six NJPs. Further, no discharge is automatically upgraded due solely to the passage of time. 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