



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

TJR
Docket No: 7029-07
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 13 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 30 November 1979 after two years of prior honorable service. You continued to serve without disciplinary incident until 4 December 1981, when you received nonjudicial punishment (NJP) for two periods of failure to go to your appointed place of duty. About five months later, on 13 May 1983, you received NJP for a one day period of unauthorized absence (UA) and absence from your appointed place of duty.

On 2 June 1983 you received your third NJP for wrongful use of marijuana. The punishment imposed was a \$500 forfeiture of pay, reduction to paygrade E-2, and correctional custody for 30 days. On this same day you began a seven day period of UA that was not terminated until 9 June 1983. However, the record does not reflect the disciplinary action taken, if any, for this misconduct.

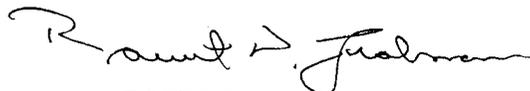
On 21 September 1983 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended separation under other than honorable conditions by reason of misconduct due to drug abuse. The discharge authority approved this recommendation and directed discharge under other than honorable conditions by reason of misconduct, and on 14 November 1983 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and desire to have your discharge upgraded. 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 three NJPs and included drug abuse. 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