



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

SMW

Docket No: 7486-07
15 May 2008

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 14 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.

On 13 August 1976, you enlisted in the Navy at age 19. On 15 March 1978, you began an unauthorized absence (UA) that ended on 15 November 1978, a period of about 245 days. On 20 February 1979, you were convicted by a special court-martial of the 245 day period of UA. The sentence included forfeitures of pay, reduction in rank, and confinement at hard labor (CHL). On 26 March 1979, you were released from CHL and given orders to report to your command. However, on 20 April 1979, you failed to report and began another UA that ended on 10 March 1980, a period of about 324 days. On 16 April 1980, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. On 16 May 1980, you were convicted by a summary court-martial (SCM) of the 324 day period of UA. On 2 June 1980, you began

another UA that ended on 10 June 1980, a period of about eight days. On 25 June 1980, you were convicted by another SCM of the eight day period of UA.

On 3 July 1980, your commanding officer initiated administrative separation by reason of misconduct due to frequent discreditable involvement. In connection with this processing, you acknowledged that separation could result in an OTH discharge and waived the right to have your case heard by an administrative discharge board (ADB). The separation authority subsequently approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to frequent discreditable involvement. On 25 July 1980, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and remorse for your misconduct. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your misconduct that included more than 19 months of total UA and continued after you were warned that further infractions could result in an OTH discharge. Finally, the Board noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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