



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

SMW  
Docket No: 7848-07  
15 May 2008

[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 26 August 1971, you enlisted in the Marine Corps at age 17 with parental consent. On 16 January 1972, you reported to a Naval Aviation Training Command to attend a formal aviation school. On 28 April 1972, you were dropped from the school due to your refusal to pay attention in class, unconcerned attitude, and ineffectual response to instructions that you were given. On 2 May 1972, you were administratively reduced in rank due to incompetence. You subsequently reported for duty as a warehouseman to Camp Lejeune.

During the period 30 August to 15 December 1972, you had four nonjudicial punishments, one suspended punishment vacated, and were convicted by a summary court-martial (SCM) for three instances of unauthorized absence totaling three days,

dereliction in the performance of your duties, failure to go to your appointed place of duty, and disobedience of a lawful order. On 5 January 1973, you were counseled regarding your misconduct and warned that further infractions could result in administrative separation. On 5 January 1973, suspended punishment from the SCM was vacated. On 23 February 1973, you were counseled for having been convicted of larceny in a civil court.

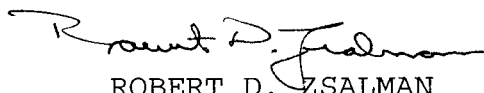
On 30 March 1973, you requested an undesirable discharge (UD) for the good of the service to avoid trial by court-martial for charges of conspiracy to commit an offense and assault. At that time, you consulted with counsel and acknowledged the consequences of receiving such a discharge. On 5 June 1973, the separation authority approved your request for a UD. On 15 June 1973, you were separated with a UD for the good of the service to avoid trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your youth. The Board also considered the letters and certificates that you provided regarding your post service volunteer efforts. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your repetitive misconduct. Furthermore, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. The Board also concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. 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,

A handwritten signature in cursive script, appearing to read "Robert D. Zsalmán".

ROBERT D. ZSALMAN  
Acting Executive Director