



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

SJN
Docket No: 08444-07
21 August 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 19 August 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 Marine Corps on 4 June 1969 at age 18. You served over two years without incident until 9 December 1971, when you received nonjudicial punishment (NJP) for a four day period of unauthorized absence (UA). Based on the information currently contained in your record it appears that on 9 May 1972, you were arrested by civil authorities for driving under the influence (DUI). You were released and ordered to appear in court on 18 May 1972. On 5 June 1972, you were found guilty in absence by civil authorities of making and uttering a bad check, and sentenced to six months in jail. However, after two failures to appear in court, you were convicted of DUI on 14 June 1972. You were sentenced to 10 days in jail. On 20 June 1972, you received NJP for 27 days of UA. On that same day, your commanding officer delivered you to civil authorities to begin serving your six month jail sentence. You were released on 20 October 1972.

On 18 December 1972, you received NJP for failure to go to your appointed place of duty. On 5 February 1973, you were convicted by summary court-martial (SCM) of making and uttering a bad check. Finally, on 2 March 1973, you received a fourth NJP for four days of UA.

Based on this disciplinary record you were processed for an administrative discharge by reason of unfitness. You elected to waive the rights to have your case heard by a board of officers. On 21 March 1973, your commanding officer recommended an undesirable discharge by reason of unfitness. On 20 April 1973, the separation authority directed an undesirable discharge. You were so discharged on 1 May 1973.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, letter from the Veterans Affairs office, overall record of service, and contention that the reason for your UA was due to being in the hands of civil authorities. Nevertheless, the board found that these factors and contention were not sufficient to warrant recharacterization of your discharge given your record of four NJP's, two civil conviction, and conviction by SCM. With regard to your contention, there is no evidence in the record to support it, and you submitted no such evidence. Further, you were turned over to civil authorities after the period of UA in question. 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