



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

SMS
Docket No: 4581-08
12 February 2009



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 11 February 2009. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 18 September 1984, you enlisted in the Navy at age 19. On 5 April and 12 July 1985, you had nonjudicial punishment (NJP). Your offenses included possession of a false identification card and two instances of unauthorized absence (UA) totaling about three days. On 15 July 1985, 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 12 and 30 December 1985, you had NJP. Your offenses included five instances of failure to go to your appointed place of duty, sleeping on watch, a two day period of UA, and failure to obey a lawful order.

On 6 January 1986, your commanding officer initiated administrative separation by reason of misconduct due to a pattern of misconduct and commission of a serious offense. 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). During the period 17 to 21 January 1986, you were in a UA status, but no disciplinary action was taken for this offense. On 4 February 1986, the separation authority approved the

discharge recommendation and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 20 February 1986, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your belief that characterization of service is to change after six months. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your service due to the seriousness of your misconduct that continued even after you were warned that further infractions could result in an OTH discharge. Furthermore, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. The Board also 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