



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

SMS  
Docket No: 4600-08  
12 February 2009

[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 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

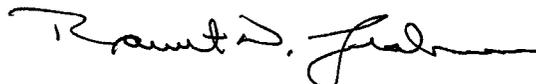
On 2 September 1976, you enlisted in the Navy at age 17 with parental consent. Based on the information currently contained in the record, you subsequently requested an undesirable discharge (UD) for the good of the service to avoid trial by court-martial for charges of disrespect, disobedience of a lawful order, resisting apprehension, destruction of military property, use of provoking words and gestures, assault, uttering disloyal statements about the United States, and communicating a threat. On 24 March 1977, a medical evaluation stated that you were pending charges following a drinking bout and found no evidence of a mental disorder. On 19 April 1977, you had nonjudicial punishment for wrongful possession of a military identification card. Apparently, the separation authority approved your request for a UD for the good of the service to avoid trial by court-martial. On 13 May 1977, you were so discharged. 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 your contention that you were intoxicated at the time that your misconduct occurred and were an active alcoholic when you were in the Navy. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your service due to the seriousness of your misconduct. Regarding your contentions, the record does show that your offenses occurred after you consumed alcohol, but there is no evidence in the record to show that you were diagnosed as being an alcoholic. 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 Navy 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,



ROBERT D. ZSALMAN  
Acting Executive Director