



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

SMS
Docket No: 4710-08
12 February 2009

[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 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.

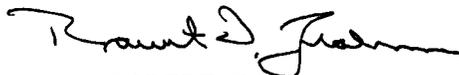
On 8 April 1992, you enlisted in the Navy at age 20. On 3 September 1992, you had nonjudicial punishment for two brief instances of unauthorized absence and use of marijuana. On 9 September 1992, your commanding officer initiated administrative separation action by reason of misconduct due to drug abuse. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 24 September 1992, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to drug abuse. On 7 October 1992, you declined substance abuse treatment at a Veterans Affairs facility. On 7 October 1992, you were also separated with an OTH discharge by reason of misconduct due to drug abuse and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, and desire for a better discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant changing the reenlistment code or recharacterization of your discharge due to the seriousness of your misconduct. Furthermore, regulations direct

assignment of an RE-4 reenlistment code to members who are discharged due to misconduct. 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