



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

JRE
Docket No. 07234-08
11 May 2009

[REDACTED]

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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 7 May 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.

The Board found that you enlisted in the Marine Corps on 7 June 1985. You received nonjudicial punishment on three occasions, and were convicted by a summary court-martial, for offenses that included disobedience of orders, disrespect of superiors, unauthorized absence, and striking another Marine in the head with a beer bottle. On 31 October 1988, your commanding officer notified you that he intended to recommend that you be separated from the Marine Corps by reason of misconduct due to a pattern of misconduct, with a discharge under other than honorable conditions. After being advised of your rights in connection with the proposed discharge, you waived your to request and

appear before an administrative board to contest the separation action. The recommendation was approved, and you were discharged by reason of misconduct on 6 January 1989, with a discharge under other than honorable conditions.

The Board found that although you were evaluated by a medical board on 1 December 1988, given diagnoses of patellofemoral pain, right knee, and healed medial collateral ligament avulsion fracture at the proximal attachment, and referred to the Physical Evaluation Board, you were not entitled to be separated or retired by reason of physical disability, as your discharge by reason of misconduct took precedence of disability evaluation proceedings.

In view of the foregoing, and as you have not demonstrated that your discharge by reason of misconduct is erroneous or unjust, 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