



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

SMS
Docket No: 8408-08
14 May 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 13 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.

On 9 August 1963, you reenlisted in the Marine Corps at age 20 after a prior period of honorable service. On 3 November 1963, you married and acquired three step-children. During the period 31 January to 17 March 1964, you were in an unauthorized absence (UA) status on two occasions totaling about 44 days. On 2 April 1964, you were convicted by a special court-martial (SPCM) of the two periods of UA totaling 44 days and failure to obey a lawful order. On 12 June 1964, an American Red Cross message informed your command that your family was suffering an extreme financial hardship. During the period 22 June to 18 August 1964, you were in a UA status on two occasions totaling about 54 days. On 15 September 1964, you were convicted by a SPCM of the two periods of UA totaling 54 days and disobedience of a lawful order. Your sentence included confinement at hard labor and a bad conduct discharge (BCD). On 29 October 1964, you stated that you could not support your

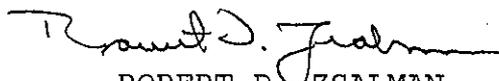
family on private's pay, did not desire to return to duty, and requested execution of the BCD. After the BCD was approved at all levels of review, on 17 November 1964, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and prior period of honorable service. The Board also considered your explanation that you were trying to save your marriage. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your repetitive misconduct. Regarding your explanation, the record does show that you had personal problems, but that does not excuse misconduct. 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.

The Board noted that as a result of your prior period of honorable service, you may be eligible for veterans' benefits due to changes in the law since your last inquiry with the Department of Veterans Affairs (DVA). You should contact the nearest office of the DVA if you desire clarification about your eligibility for those benefits.

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