



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

REC
Docket No: 02103-09
12 May 2010



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 May 2010. 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.

You enlisted in the Marine Corps and began a period of active duty on 1 March 1971. On 28 September 1971, you received nonjudicial punishment (NJP) which consisted of two occasions of being in an unauthorized absence (UA) status totaling 23 days. During the UA period you were apprehended by the Elizabeth City, North Carolina police and charged of auto theft and interstate transportation of a stolen vehicle. You were sentenced to five years imprisonment. You were notified of pending administrative discharge processing for misconduct based on your civil conviction. You elected to have your case heard by an administrative discharge board (ADB), which voted three to zero in favor of an under other than honorable discharge. Your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. The discharge authority directed an other than honorable discharge by reason of misconduct. On 31 March 1972, you were so discharged. At that time you were assigned an appropriate RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge, given your record of NJP and one civil conviction for serious offenses. 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