



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

BAN
Docket No: 03156-09
26 February 2010

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10, 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 24 February 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.

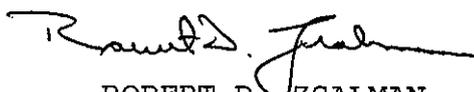
You initially enlisted in the Air Force from July 1972 to April 1974, and received an honorable discharge. On 26 April 1976, you enlisted in the Marine Corps and served without disciplinary incident until 12 July 1976, when you received nonjudicial punishment (NJP) for unauthorized absence (UA). Shortly thereafter, you received the following disciplinary actions: on 23 February 1977, you received NJP for willful disobedience of a superior commissioned officer, failure to obey a lawful order, and conduct prejudicial to good order and discipline; on 24 March 1977, you received NJP for breaking restriction and failure to obey a lawful order; on 16 January 1978, you received NJP for failure to obey a lawful order and carelessly and recklessly driving a vehicle; on 2 October 1978, you received NJP two specifications of UA; and on 9 October 1979, you received NJP for three specifications of UA and disrespect toward a

noncommissioned officer; on 25 October 1979, you received NJP for UA; and on 13 December 1979, you were convicted at a special court-martial for three specifications of UA, and failure to obey a lawful order. Therefore, you were recommended for separation with an other than honorable (OTH) discharge due to your pattern of misconduct. You were advised of your procedural rights, and waived your right to an administrative discharge board (ADB). The separation authority approved the recommendation and on 26 March 1980, you were separated with an OTH discharge and an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant changing the characterization of your discharge due to your misconduct. Furthermore, the Board found you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Finally, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. 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