



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

TJR
Docket No: 6513-09
12 May 2010

[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 11 May 2010. The names and votes of the members of the panel will be furnished upon request. 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 Navy on 23 December 1968 at age 19. About a month later, on 21 January 1969, you received nonjudicial punishment (NJP) for two specifications of disobedience and disrespect. Shortly thereafter, on 6 March 1969, you received your second NJP for communicating a threat. On 19 March 1969 you were convicted by summary court-martial (SCM) of disobedience and disrespect. Less than a month later, on 16 April 1969, you became the subject of a naval investigation regarding the use of illegal and/or dangerous drugs prior to enlistment and during your period of service. You admitted using various types of drugs, specifically, heroin, marijuana, tuinal, seconal, Nembutal, codeine, cocaine, and lysergic acid diethylamide, since the age of 15. On 23 April and again on 17 June 1969, you were convicted by SCM of two specifications of disobedience and disrespect.

Subsequently, you were notified of pending administrative discharge action by reason of unfitness due to drug abuse. After waiving your procedural rights, your commanding officer recommended discharge under other than honorable conditions by reason of unfitness due to drug abuse. On 30 July 1969 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of unfitness, and on 12 September 1969, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to upgrade your discharge. It also considered your character reference letters submitted in support of your case. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your self-admitted drug abuse and frequent misconduct which resulted in NJP and conviction by SCM on three occasions. Finally, you were given an opportunity to defend yourself and perhaps receive a better characterization of service, but waived your procedural rights. Accordingly, your application has been denied.

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