

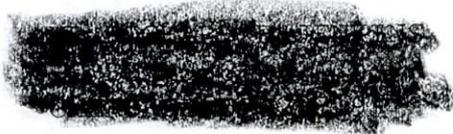


DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG

Docket No: 7877-09

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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board found that you entered active duty in the Marine Corps on 18 November 1987. You received two summary courts-martial (SCM) for four specifications of failure to obey a lawful order, using provoking speech, assault, and wrongfully using cocaine. After your first SCM, you were counseled and warned twice that further misconduct could result in administrative separation processing. On 23 March 1990, you were notified of pending administrative separation action with an other than honorable (OTH) discharge for misconduct. You waived your right to an administrative discharge board (ADB).

On 23 March 1990, you received an OTH discharge for misconduct, and were assigned an RE-4 reenlistment code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth and post service conduct. However, the Board found that your OTH discharge should not be changed due to your misconduct, which included drug abuse. The Board noted that you committed misconduct after being warned that further offenses could result in administrative separation. The Board also noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. In view of the above, 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