



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

TJR
Docket No: 10395-09
12 May 2010

[REDACTED]

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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 27 July 1967 at age 18 and served without disciplinary infraction until 3 September 1969, when you became the subject of a naval investigation regarding the use of illegal and/or dangerous drugs. As a result, on 27 October 1969, you were notified of pending administrative discharge action by reason of unfitness. After waiving your procedural rights, you elected to submit a statement regarding the circumstances for which discharge had be initiated. At that time you admitted to wrongful in-service drug involvement, specifically, illegal use of marijuana, and hashish, and unauthorized use of a prescription drug, Darvon.

On 18 November 1969 your commanding officer recommended discharge under other than honorable conditions by reason of unfitness due to your wrongful use of marijuana and hashish, and unauthorized use of Darvon. However, on 21 November 1969, an enlisted

performance board (EPB) recommended a general discharge by reason of unfitness. On 25 November 1969 the discharge authority approved the recommendation of the EPB and directed your commanding officer to issue you a general discharge under honorable conditions by reason of unfitness, and on 10 December 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 and desire to upgrade your discharge. It also considered your assertion that you were wrongfully discharged as a result of being "railroaded" during a naval investigation into illegal drug usage. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your self-admitted drug related misconduct. Finally, Sailors with a record of drug use, even under today's standards, normally receive discharges under other than honorable conditions, and as such the Board noted that you were fortunate to receive a general characterization of service. 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