



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

JRE
Docket No. 595-12
1 November 2012

[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 of the United States Code, section 1552.

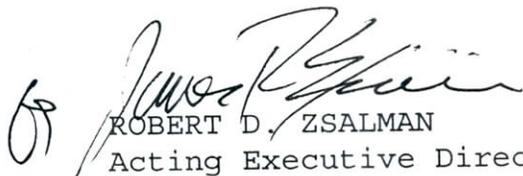
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 October 2012. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 your application was not timely filed, and that you have not demonstrated that it would be in the interest of justice for the Board to excuse your failure to submit your application in a timely manner. The Board noted that although you claim you discovered the alleged error or injustice on 1 August 2001, you knew on 11 March 1991 that you were being released from active

duty without entitlement to disability benefits administered by the Department of the Navy. The recent determination of Department of Veterans Affairs (VA) officials to the effect that your pre-existing condition of asthma increased in severity beyond normal progression during your 1 month and 20 days service in 1991 is not well reasoned, and it is not probative of the existence of error or injustice in your naval record. 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