



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

TJR
Docket No: 736-12
25 October 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, 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 23 October 2012. 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.

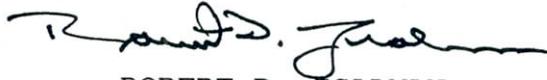
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 2 September 1966 at age 17 and served for about six months without disciplinary infraction. However, on 31 March 1967, you were apprehended by civil authorities on charges of robbery and kidnapping for the purpose of robbery. Shortly thereafter, on 21 June 1967, you were convicted by civil authorities of first degree robbery and sentenced to confinement at a California Youth Authority facility for one year and probation for a year. Subsequently, you were notified of pending administrative separation by reason of misconduct due to civil conviction. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 5 September 1967 your commanding officer recommended an undesirable discharge by reason of misconduct due to civilian conviction. On 28 November 1967 the discharge authority approved this recommendation and directed your commanding officer to issue you an undesirable discharge by reason of misconduct due to civil conviction, and on 9 December 1967, while in custody of civil authorities, 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, resume', and desire to upgrade the characterization of your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in the civil community. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to an individual's good post service conduct. 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