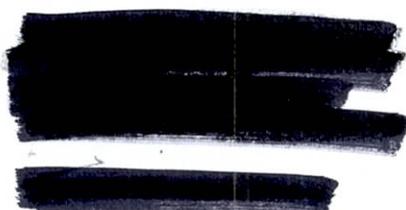




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TJR
Docket No: 741-12
25 October 2012



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 Navy on 1 August 1980 at age 19 and served for nearly a year without disciplinary incident, but on 31 July 1981 you were convicted by summary court-martial (SCM) of two periods of unauthorized absence (UA) totalling two days, two specifications of disrespect, and two specifications of failure to obey a lawful order. On 9 October and again on 11 November 1981, you received nonjudicial punishment (NJP) for three periods of absence from your appointed place of duty and a one day period of UA.

During the period from 6 January to 17 February 1982 you received NJP on three more occasions for two specifications of attempted escape, theft, wrongful possession and use of an identification card with the intent to deceive, three periods of absence from your appointed place of duty, and two specifications of failure to obey a lawful order.

On 21 February 1982 you were notified of pending administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). However, you submitted a written rebuttal concerning the characterization of the discharge and the discharge itself. Nonetheless, on 30 March 1982, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 14 April 1982 the discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct and on 23 April 1982 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, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in five NJPs and an SCM. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to the passage of time. 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