



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

REC  
Docket No: 00904-12  
25 October 2012



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 24 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 25 January 1980. On 4 September 1980, you received nonjudicial punishment (NJP) for wrongful possession of marijuana. On 22 January 1982, you signed and acknowledged the Navy's drug and alcohol policy. On 30 March 1981, you received NJP for being in an unauthorized absence (UA) status for 19 days, three incidents of failure to go to your appointed place of duty, breaking restriction, and wrongful possession of marijuana. On 17 August 1982, you commenced a period of UA lasting 36 days. Your chain of command decided to take no disciplinary action. On 5 October 1982, you provided a urine sample that tested positive for wrongful use of marijuana.

On 15 October 1982, you were UA for 11 days. On 1 December 1982, you were UA for 49 days, and missed your ship's movement. On 31 January 1983, you were again UA for 20 days with no disciplinary action taken by your chain of command. On 17 March 1983, you were convicted by the Superior Court of Tift County, Georgia, of two counts of credit card fraud. You were sentenced to three years confinement in the state prison. On 3 February 1984, you were convicted by the Superior Court of Fulton County, Georgia, of forgery in the first degree. You were sentenced to another three years confinement in the state prison. On 30 March 1984, you were advised that your commanding officer was recommending you for administrative separation with an other than honorable (OTH) discharge due to misconduct. You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 7 July 1984, your commanding officer forwarded his recommendation that you be discharged with an OTH characterization of service by reason of misconduct. On 27 July 1984, the discharge authority directed an OTH discharge by reason of misconduct (conviction by a civil court). On 31 August 1984, you were so discharged. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the characterization of your discharge, given your record of two NJP's, and two civil convictions of misconduct. In this regard, an RE-4 reenlistment code is required when an individual is discharged for misconduct and is not recommended for retention. The Board also noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Accordingly, 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,

A handwritten signature in cursive script, appearing to read "Robert D. Zsalmán". The signature is written in dark ink and is positioned above the typed name.

ROBERT D ZSALMAN  
Acting Executive Director