



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

TJR
Docket No: 7170-12
23 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 16 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 17 October 1995 at age 18. You served for about eight months without disciplinary incident, but on 6 June 1996 you received nonjudicial punishment (NJP) for making a false official statement. On 3 December 1996 you received NJP for failure to obey a lawful order.

On 11 August and again on 7 October 1997 you received NJP for disrespect, communicating a threat, making a false official statement, and wrongful solicitation. Shortly thereafter, on 16 October 1997, you were convicted by civil authorities of criminal domestic violence and sentenced to confinement for 30 days. Less than a month later, on 10 November 1997, you were again convicted by civil authorities of unlawful use of a telephone and sentenced to community service for 30 days and probation for two years.

Subsequently, you were processed for an administrative separation by reason of misconduct due to a pattern of misconduct. After waiving your procedural right to consult with legal counsel and to present your case to an administrative discharge board (ADB),

your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. The discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 18 December 1997 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. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your frequent and repetitive misconduct in both the military and civilian communities. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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