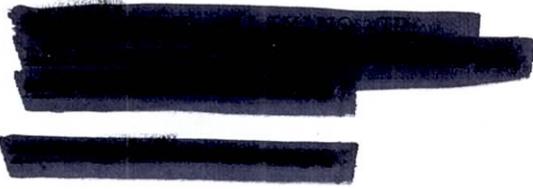




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TJR
Docket No: 9702-12
23 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 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 Navy Reserve on 12 June 1978 at age 17 and immediately began a period of active duty. You served without disciplinary incident for about six months. However, during the period from 29 January to 4 June 1979, you received nonjudicial punishment (NJP) on five occasions for four periods of absence from your appointed place of duty, failure to obey a lawful order, disobedience, and three specifications of resisting arrest. You were also in an unauthorized absence (UA) status for a period of six days for which no disciplinary action was taken.

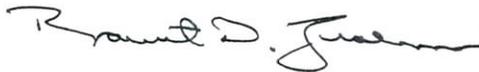
On 30 June 1979 you broke restriction and began another period of UA that was not terminated until 13 November 1993 when you were apprehended. As a result of this 5,250 day period of UA you were declared a deserter and the charges of desertion and breaking restriction were subsequently referred to a court-martial. On 23 December 1993 you were convicted by special court-martial (SPCM)

of desertion and breaking restriction. You were sentenced to confinement for 40 days, a \$500 forfeiture of pay, and a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review and on 15 December 1994 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, explanation for your misconduct, and desire to have your discharge upgraded. It also considered your assertions of not being properly trained and suffering physical and emotional trauma. Nevertheless, the Board concluded that these factors were not sufficient to warrant relief in your case because of the seriousness of your repetitive and lengthy periods of UA from the Navy which resulted in five NJPs and a court-martial conviction. 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