



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

TJR
Docket No: 9712-12
23 October 2012

[REDACTED]

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 26 October 1972 at age 17 and immediately began a period of active duty. You served without disciplinary incident until 24 April 1974, when you received nonjudicial punishment (NJP) for failure to obey a lawful order. On 5 September 1974 you received NJP for wrongful possession of marijuana.

During the period from 9 January to 13 May 1975 you received NJP on three more occasions for five periods of absence from your appointed place of duty and two specifications of failure to obey a lawful order. You were also in an unauthorized absence (UA) status for approximately 29 days, specifically, from 10 April to 9 March 1975, but no disciplinary action was taken for this misconduct. On 8 August 1975 you were convicted by special court-martial (SPCM) of attempting to escape from custody and a 12 day period of UA. Less than two months later, on 15 October 1975, you were again convicted by SPCM of a 23 day period of UA. You were sentenced to confinement at hard labor for 90 days and a bad conduct discharge (BCD). On 5 December 1975 you received

your seventh NJP for two periods of absence from your appointed place of duty and a three day period of UA. Subsequently, the BCD was approved at all levels of review and on 15 April 1976 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 and desire to have your discharge upgraded to general so that your right to bear arms and vote can be restored. Nevertheless, the Board concluded that these factors were not sufficient to warrant relief in your case because of the seriousness of your repetitive misconduct, which also included drug abuse, and lengthy periods of UA from the Marine Corps that resulted in seven NJPs and two courts-martial convictions. 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