



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

BJG
Docket No: 4162-13
26 March 2014

[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 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 25 March 2014. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

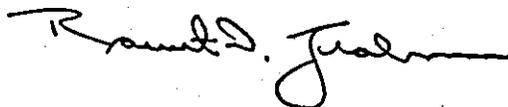
You enlisted in the Navy and entered a period of active duty on 13 October 1992. You received nonjudicial punishment (NJP) for the wrongful use of cocaine. You could have refused NJP and requested trial by court-martial, where you would have been represented by counsel. You were then notified that your commanding officer was recommending you for administrative separation due to misconduct. You exercised your procedural right to have your case heard by an administrative discharge board (ADB). The ADB met, found that you had committed

misconduct, and recommended that you be discharged with a general characterization of service. On 27 June 1994, you were discharged with a general characterization of service due to misconduct, and assigned an RE-4 (not recommended for retention) reentry code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth and allegations that your sixth amendment rights were violated and appointed counsel was ineffective. However, the Board concluded that your discharge should not be upgraded nor were you entitled to two years' of active duty credit due to your drug abuse. Regarding your allegation that your sixth amendment rights were violated, the Board found that your counsel did not object to the government's introduction of your positive urinalysis results confirming your wrongful use of cocaine. The Board was not persuaded that your counsel was ineffective due to his failure to object to this evidence. The Board believed that you were fortunate to receive a general characterization of service, since Sailors who are separated for misconduct normally receive other than honorable discharges. You are advised that no discharge is upgraded due merely to the passage of time or post service good conduct. In view of the above, 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,



ROBERT D. ZSALMAN
Acting Executive Director