



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

TJR
Docket No: 4925-13
29 April 2014

[REDACTED]

[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 15 April 2014. 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 and began a period of active duty on 14 August 1972. You served for about six months without disciplinary incident, however, during the period from 27 February 1973 to 12 January 1976, you received nonjudicial punishment (NJP) on eight occasions for five periods of unauthorized absence (UA) totalling 21 days, disobedience, and two periods of absence from your appointed place of duty. While in a UA status, on 21 December 1976, you were convicted by civil authorities of indecency and aggravated rape and sentenced to confinement.

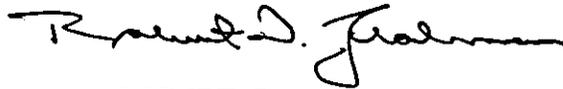
On 17 January 1977 you were notified of administrative separation by reason of misconduct due to civil conviction. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 21 April 1977 an ADB recommended separation under other than honorable conditions by reason of misconduct due to civil conviction. Subsequently, your commanding officer, in concurrence with the ADB, also

recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. On 13 May 1977 the discharge authority approved these recommendations and directed discharge under other than honorable conditions by reason of misconduct, and on 23 May 1977 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and assertion of having post-traumatic stress disorder (PTSD). Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repetitive misconduct in both the military and civilian communities. Further, there is no evidence in the record, and you provided none, to support your assertion of having PTSD. 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