



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

TJR  
Docket No: 5616-13  
6 June 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, 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 3 June 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 10 July 1967. You served for a year and 10 months without incident, but on 24 May 1969 you received nonjudicial punishment (NJP) for a 17 day period of unauthorized absence (UA). About seven months later, on 11 December 1969, you were convicted by summary court-martial (SCM) of a 21 day period of UA.

On 14 April 1970 you began another period of UA that was not terminated until you were apprehended on 23 February 1971. As a result, on 17 March 1971, you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for the foregoing period of UA totalling 315 days. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 26 March 1971 your request for discharge was granted and as a result of this action, you were spared the

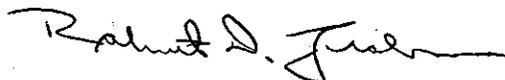
stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. Shortly thereafter, on 5 April 1971, you received an undesirable discharge by reason of good of the service.

On 17 August 1977, under the Department of Defense Discharge (DOD) Special Discharge Review Program (SDRP), the characterization of your undesirable discharge was changed to general under honorable conditions. Note however, that this recharacterization does not entitle you to benefits administered by the Department of Veterans Affairs (DVA).

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as post service conduct, your period of satisfactory service, combat service in the Republic of Vietnam, awards and medals, and desire to upgrade your general discharge. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant further recharacterization of your discharge given your lengthy period of UA from the Marine Corps. The Board concluded that you received the benefit of your bargain with the Marine Corps when you were discharged at your request rather than being tried by court-martial, which could have resulted in a lengthy period of confinement as well as a punitive discharge. Finally, the Board noted that your characterization of service was changed to general under honorable conditions under the provisions of SDRP, but concluded that any further change, which would make you eligible for DVA benefits, was not warranted. As such, the Board concluded your general discharge was proper as issued and no further change is warranted. 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