



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

SMS  
Docket No: 8548-08  
20 May 2009

[REDACTED]

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 19 May 2009. 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.

On 21 February 1980, you enlisted in the Navy Reserve at age 17 with parental consent and began a period of active duty on 25 February 1980. On 26 February 1981, you had nonjudicial punishment for possession of marijuana on board a naval vessel. You were subsequently found psychologically dependent, completed substance abuse treatment, returned to duty, and warned that further infractions could result in administrative separation. On 23 December 1981, you were counseled regarding deficiencies in your performance and conduct, and warned that further infractions could result in an other than honorable (OTH) discharge. During July 2007, marijuana was found in the berthing area on board your ship. You subsequently admitted continued use of drugs during a Naval Investigation Service (NIS) interview.

On 12 November 1982, your commanding officer initiated administrative separation by reason of drug abuse rehabilitation failure. In connection with this processing, you acknowledged the separation action and that your characterization of service would be determined as warranted by your service record. On 10 December 1982, the separation authority approved the discharge recommendation and directed discharge by reason of drug abuse rehabilitation failure and that characterization of service would be determined as warranted by your service record. On 17 December 1982, you were separated with a general discharge due to drug abuse rehabilitation failure.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contention that personal problems contributed to your misconduct. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your service. In this regard, characterization of service determined as warranted by service records is based on a member's conduct, actions, and overall trait and behavior marks assigned on a periodic basis. Minimum acceptable average overall trait and behavior marks of 2.7 and 3.0, respectively, were required to form the basis for a fully honorable characterization of service. Your average overall trait and behavior marks were 3.23 and 2.93, respectively. Regarding your contention, there is no evidence in the record to support it. But even if there was such evidence, personal problems do not excuse misconduct. Given your continued use of drugs and failure to attain the behavior mark average required for a fully honorable characterization of service, the Board found that your service warranted a general characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. Accordingly, 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,

A handwritten signature in cursive script, appearing to read "Robert D. Zsalmán".

ROBERT D. ZSALMAN  
Acting Executive Director