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

SJN
Docket No: 07210-09
11 May 2010

[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 7 May 2010. 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.

Following a thorough review of your naval record the Board found that civil authorities convicted you of driving without the owner's consent. You received two nonjudicial punishments (NJP's) for use of a controlled substance and unauthorized absence (UA), were convicted by summary court-martial (SCM) of 10 days of UA, and were convicted by two special courts-martial (SPCM) of three periods of UA totaling 41 days. As a result of your second SPCM, you were sentenced to receive a bad conduct discharge (BCD). However, the BCD was suspended for a period of six months. On 8 December 1967, you began a period of UA that lasted 229 days, ending on 25 July 1968. Consequently, your BCD was vacated and you were discharged on 6 November 1968 after appellate review was completed.

The Board, in its review of your record and application, carefully weighed all potentially mitigating factors, such as your youth, desire to upgrade your discharge, and contention that your misconduct was due to your alcohol problems. Nevertheless,

the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your civil conviction, two NJP's, SCM, and convictions by two SPCM's for very serious misconduct. Concerning your contention that your use of alcohol impaired your ability to serve, there is no evidence in the record, and you submitted none, to support it. Additionally, alcohol abuse does not excuse misconduct, and disciplinary action was appropriate. 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

ROBERT D. ZSALMAN
Acting Executive Director