



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

SJN
Docket No: 00186-12
22 October 2012

[REDACTED]

[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 17 October 2012. 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.

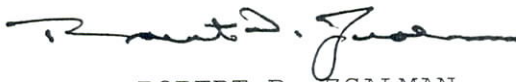
You enlisted in the Marine Corps and began a period of active duty on 22 October 1974. The Board found that on 6 March and 16 May 1975, you received nonjudicial punishment (NJP) for three periods of unauthorized absence (UA) totaling 23 days. On 13 November 1976, you began a period of UA that lasted 141 days, ending on 4 April 1977. The period of UA was referred for trial by special court-martial (SPCM). However, the charge was dismissed due to lack of jurisdiction because you had fraudulently enlisted with the help of your recruiter when you concealed your pre-service criminal history. You were separated with a void enlistment on 29 June 1977. On 20 May 2008, your void enlistment was changed to a general discharge by this Board based on the Catlow/Russo Court of Military Appeals decision.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the characterization of your discharge given your two NJP's, lengthy period of UA that

lasted over four months, and fraudulent entry. Finally, the Board also noted that you were fortunate to receive an upgrade to a general characterization of service since a discharge under other than honorable conditions is often directed when an individual is discharged for misconduct. 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 black ink, appearing to read "Robert D. Zsalmán", written in a cursive style.

ROBERT D. ZSALMAN
Acting Executive Director