



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

SJN
Docket No: 00517-12
22 October 2012

[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 11 July 1988. The Board found that on 14 December 1988 and 26 June 1989, you were counseled and warned that further misconduct could result in administrative discharge action. During the period from 27 June to 25 October 1989, you received three nonjudicial punishments (NJP's) for three periods of unauthorized absence totaling 34 days, wrongful appropriation, and disrespect. On 10 February 1990, you were convicted by summary court-martial (SCM) of disobedience, assault, and drunk and disorderly conduct. You were sentenced to a reduction in paygrade, a forfeiture of pay, and confinement at hard labor. On 2 March 1990, you received a fourth NJP for breaking restriction. Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your case was forwarded recommending that you be discharged under other

than honorable (OTH) conditions by reason of misconduct. The separation authority concurred and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. You were so discharge on 14 July 1990.

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 concluded these factors were not sufficient to warrant recharacterization of your discharge given your four NJP's, SCM conviction, and the fact that you were counseled and warned of the consequences of further misconduct before receiving your first NJP. The Board also noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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,



ROBERT D. ZSALMAN
Acting Executive Director