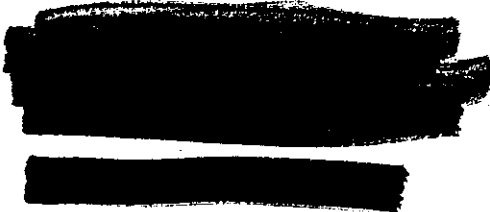




DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

TJR  
Docket No: 3116-13  
19 February 2014



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 19 February 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 18 October 1972. You served for 10 months without disciplinary incident but during the period from 2 August 1973 to 26 June 1976 you received nonjudicial punishment (NJP) on eight occasions for absence from your appointed place of duty, two specifications of disrespect, failure to go to your appointed place of duty, two specifications of assault, failure to obey a lawful order, a two day period of unauthorized absence (UA), and wrongful possession of marijuana and drug paraphernalia. During the period from 11 August to 20 September 1976 you were again in a UA status on four more occasions for 17 days. However, the record does not reflect the disciplinary action taken, if any, for this misconduct.

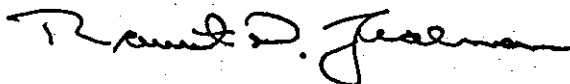
On 20 October 1976 you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for disrespect, disobedience, and communicating a threat with a tire iron. Prior to submitting this request you conferred with a qualified military lawyer at which time you were advised of your

rights and warned of the probable adverse consequences of accepting such a discharge. On 30 November 1976 you received your ninth NJP for a six day period of UA. Subsequently, on 6 December 1976, your request was granted and the commanding officer was directed to issue you an other than honorable discharge by reason of the good of the service. 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. On 21 December 1976 you were issued an other than honorable discharge.

The Board, in its review of your entire record and application carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge because you were granted permission to separate 11 days early. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct in both the military and civilian communities which also resulted in your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. 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