



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

SJN
Docket No: 04121-13
1 May 2014

[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 30 April 2014. 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.

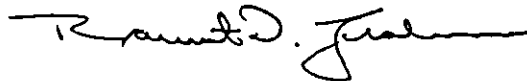
You enlisted in the Marine Corps and began a period of active duty on 3 November 1975. Your record is incomplete, however, on 17 March 1977, you were convicted by special court (SPCM) of 308 days of unauthorized absence (UA). You were sentenced to a suspended period of confinement at hard labor, and a forfeiture of pay. On 31 August 1977, you received nonjudicial punishment (NJP) for wrongful possession of marijuana. On 16 July 1979, a service record entry states, in part, that you were counseled regarding your SPCM of 17 March 1977, being dismissed due to a legal technicality, and warned that your career was still in jeopardy and that immediate improvement in your conduct was necessary. On 9 November 1979, you received another counseling regarding your involvement with the wrongful use of marijuana. You remained on active duty until you received a general discharge on 6 September 1980.

Characterization of service is based in part on conduct marks assigned on a periodic basis. Your conduct average was 3.5. At the time of your service, a conduct average of 4.0 was required for a fully honorable characterization of service.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, medical issues, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in your characterization of service given your NJP, involvement with illegal drugs, and failure to attain the required average in conduct, or the issuance of a Good Conduct Medal. In this regard, the medal could only be issued to an individual on their first enlistment with at least three years and nine months of continuous active service, without any convictions by court-martial, NJP's, or civil convictions for offenses involving moral turpitude. If the service record contained a record of NJP, a new period would begin on the date following the offense. Although your SPCM was dismissed, your NJP offense occurred in August 1977, making you ineligible for a Good Conduct Medal. When you were released from active duty, you were well short of the period of unblemished service necessary to qualify for the award. With that being said, the notation on your Certificate of Discharge or Release from Active Duty (DD Form 214) does not show that you received a Good Conduct Medal, but only sets forth the starting date for the next period of the award, which appears to indicate further 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,



ROBERT D. ZSALMAN
Acting Executive Director