



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

TAL
Docket No: 4415-13
11 April 2014

[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 2 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.

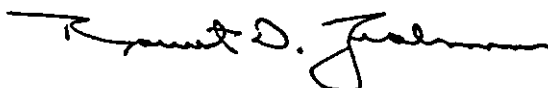
You enlisted in the Navy and began a period of active duty on 11 December 1989 at age 19. On 25 April 1991, you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and being incapacitated for the proper performance of duties. On 11 February 1993, you were convicted by special court-martial (SPCM) of five instances of unauthorized absence (UA) from your unit for a period of 14 days. The sentence imposed was confinement, which was suspended for six months. On 12 February 1993, you received NJP for UA from your unit for a period of three days and communicating a threat. After your first NJP, you were counseled regarding your misconduct and warned that further offenses could result in administrative separation. On 23 March 1993, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (pattern of misconduct). You

waived all of your rights, including your right to an administrative discharge board (ADB). The separation authority approved and directed an OTH discharge and on 21 May 1993 you received it due to misconduct (pattern of misconduct).

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two NJPs and an SPCM. The Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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