



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

TJR
Docket No: 4909-13
30 April 2014

[REDACTED]

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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 23 April 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 reenlisted in the Navy on 7 May 1993 after more than three years of prior satisfactory service. You continued to serve without disciplinary infraction until 14 November 1993, when you were apprehended by civil authorities and charged with reckless driving, driving under the influence of alcohol, and driving without a license. In this regard, a bench warrant was issued for your arrest because of your failure to appear in civil court. However, your record does not reflect the outcome of the civil proceedings.

On 29 July 1994 you received nonjudicial punishment (NJP) for a 28 day period of unauthorized absence (UA), two specifications of missing the movement of your ship, and drunk and disorderly conduct. Subsequently, you were processed for an administrative separation by reason of misconduct due to commission of a serious offense. After waiving your procedural rights, on 19 August 1994, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense. On 2 September 1994, the

discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 29 September 1994, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service conduct and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in both the military and civilian communities. Further, you were given an opportunity to defend your actions, but waived your procedural right. Accordingly, your application has been denied.

Be advised that under current regulations you may be eligible for veterans' benefits which accrued during your first period of service. Whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of the DVA concerning your right to apply for benefits.

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