



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

SMW

Docket No: 3513-07
13 May 2008

[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 7 May 2008. 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.

On 25 February 1972, you enlisted in the Navy at age 18. On 26 July 1972, you were convicted by a special court-martial of disrespect, three instances of failure to obey a lawful order, and three instances of assault. On 29 September 1972, you had nonjudicial punishment for two instances of unauthorized absence totaling about three days and two instances of failure to go to your appointed place of duty.

On 27 June 1973, you were convicted by a general court-martial of two instances of assault and battery, soliciting others to commit murder, and two instances of communicating a threat. The sentence included confinement, forfeitures of pay, and a dishonorable discharge (DD). The confinement was subsequently reduced and the DD was also reduced to a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 5 December 1974, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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