



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

TJR
Docket No: 7529-07
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, 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 6 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.

You reenlisted in the Navy on 26 August 1979 after five years of prior honorable service. You continued to serve without disciplinary incident until 5 June 1980, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty and disobedience. On 22 January and again on 26 March 1981 you received NJP for two periods of unauthorized absence (UA) totalling 13 days, assault, reckless driving, failure to obey a lawful order, and breaking restriction.

During the period from 31 October 1981 to 4 July 1982 you were in a UA status on three occasions. As a result, on 20 October 1982, you were convicted by special court-martial (SPCM) of the periods of UA totalling 245 days. You were sentenced to confinement at hard labor for 90 days, a \$750 forfeiture of pay, and reduction to paygrade E-1.

During the period from 23 March 1983 to 1 May 1984 you received NJP on three more occasions for two specifications of fraud, absence from your appointed place of duty, and wrongful use of

marijuana. On 23 May and 7 July 1984 you were convicted by summary court-martial (SCM) of two specifications of failure to obey a lawful order and two specifications of being an accessory after the fact. About four months later, on 2 November 1984, you were convicted by SPCM of a 48 day period of UA and sentenced to confinement at hard labor for 63 days and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 11 September 1985 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service, desire to upgrade your discharge, and the passage of time. It also considered your assertions of deaths in your family, alcohol and drug abuse, and being under a lot of pressure. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in six NJPs, four court-martial convictions, and also included drug abuse. 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