



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

JSR  
Docket No: 11045-07  
15 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.

You requested removing the fitness report for 16 May to 18 October 1996 and the Commandant of the Marine Corps letter of counseling dated 21 August 1997 with your acknowledgment and the associated Headquarters Marine Corps (HQMC) routing sheet dated 9 March 1998.

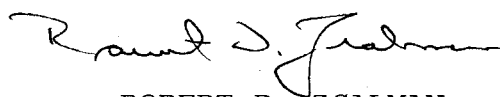
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 May 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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. In addition, the Board considered the report of the HQMC Performance Evaluation Review Board (PERB), dated 10 December 2007, and the HQMC advisory opinion dated 6 March 2008, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB and the advisory opinion, except paragraph 4.a and the statement, in paragraph 4.b, that you claim your nonjudicial

punishment (NJP) of 31 August 1996 should be removed. The Board did not consider removing your NJP, as you did not specifically request this. The Board recognized that even if the NJP were not removed, the contested documents could properly be removed on a finding of error or injustice in the NJP. However, the Board made no such finding. The Board could not accept your assertion that the NJP was awarded to appease sailors on the USS TARAWA. Finally, the Board did not condone the submission of the letter of counseling and routing sheet so long after the NJP they address, but did not consider this lateness to invalidate those documents. In view of the above, 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

Enclosure