



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

JRE  
Docket No. 07152-08  
11 May 2009

[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 2009. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 21 October 2003. In a memorandum dated 30 March 2007, a Navy orthopedic surgeon stated that you had a congenital back condition that can present with low back pain, and that your condition had failed to improve during a period of limited duty. In his opinion, your back condition rendered you unsuitable for further service, rather than unfit for duty by reason of physical disability. On 21 May 2007, your commanding officer advised you of his intent to recommend that you be discharged for the convenience of the government by reason of a physical or mental condition which interfered with

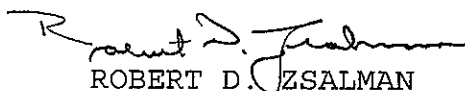
your performance of duty. After being advised of your rights in connection with the proposed discharge, you waived your right to consult with counsel, submit a statement for consideration by the separation authority, and to review of your case by the general court-martial convening authority. You were honorably discharged for the convenience of the government on 21 June 2007, in accordance with the approved recommendation of your commanding officer.

The fact that the Department of Veterans Affairs (VA) awarded you service connection and disability ratings for an adjustment disorder with depressed mood, a low back condition, and surgical repair of an inguinal hernia, does not establish that your discharge is erroneous, because the VA acted without regard to the issue of your fitness for naval service on the date of your discharge. As you have not demonstrated that you were unfit to reasonably perform the duties of your rank or rating on 21 July 2007, the Board was unable to recommend that your record be correct to show that you were separated or retired by reason of physical disability. In addition, the Board noted that adjustment disorders were not considered to be disabilities under the laws administered by the military departments, and were not ratable.

In view of the foregoing, 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