



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

SMS  
Docket No: 8387-08  
14 May 2009

[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 13 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.

On 23 March 1990, you reenlisted in the Navy at age 24 after a prior period of honorable service. On 3 October 1990, your urinalysis tested positive for methamphetamines. On 26 October 1990, you were apprehended by civilian authorities and held pending charges, which placed you in an unauthorized absence (UA) status. On 21 December 1990, you were convicted in civilian court of assault and sentenced to probation, custody, and a fine. You were also returned to military authorities after being in a UA status for 56 days. On 21 December 1990, your commanding officer initiated administrative separation by reason of misconduct due to civil conviction, commission of a serious offense, and drug abuse. In connection with this processing, you acknowledged the separation action and that it could result in an other than honorable (OTH) discharge, waived the right to have your case heard by an administrative discharge board (ADB), and submitted a statement in which you stated in essence that withdrawal symptoms from alcoholism contributed to your misconduct as well as harassment from members in your command. Your commanding officer further indicated that you were diagnosed as being an alcoholic, received treatment, and were not drug dependent. On 29 December 1990, you began a period of UA. On 8 January 1991, the separation authority approved the separation recommendation and directed an OTH discharge by reason of misconduct due to civil

conviction. On 10 January 1991, a service record entry was made advising you of your eligibility for residential substance abuse treatment at a Veterans Affairs facility, but you were not available to acknowledge this benefit since you were still in a UA status. On 10 January 1991, while in absentia, you were separated with an OTH discharge by reason of misconduct due to civil conviction.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your prior period of honorable service. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. The Board also noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. 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.

The Board also noted that as a result of your prior honorable service you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those 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