



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

BJG
Docket No: 7908-09
13 May 2010

[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 11 May 2010. 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. The Board found that you entered active duty in the Marine Corps on 28 February 1978. You received six nonjudicial punishments and a summary court-martial for unauthorized absences totaling three days, seven occasions of absence from your appointed place of duty, willful disobedience of and failure to obey a lawful order, disrespect to a petty officer, sleeping on post, and having an unclean rifle. You were notified that your commanding officer was recommending you for administrative separation with an other than honorable

(OTH) discharge for misconduct. You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 29 January 1980, you received an OTH discharge for misconduct, and were assigned an RE-4 reenlistment code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth and current medical problems. However, the Board concluded that your OTH discharge should not be changed due to your repeated misconduct. You are advised that no discharge is automatically upgraded due merely to the passage of time. The Board found you waived your right to an ADB, your best opportunity for retention or a better characterization of service. 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