



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

SJN
Docket No: 01416-13
15 January 2014

[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 14 January 2014. 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 enlisted in the Marine Corps and began a period of active duty on 23 January 1976. The Board found that during the period from 27 May 1976 to 22 November 1978, you received six nonjudicial punishments (NJP's) for leaving your post before being properly relieved, disobedience, two instances of being absent from your appointed place of duty, and three periods of unauthorized absence. Additionally, you were counseled regarding your frequent involvement with military authorities after your fourth NJP and warned that further misconduct could result in administrative discharge action. On 13 March 1979, you were convicted by civil authorities of six counts of breaking and entering, and felonious larceny. You were sentenced to three to five years in prison. Subsequently, administrative discharge action was initiated by reason of misconduct due to civil conviction. You were notified of this pending administrative separation action, elected to consult counsel and have your case heard by an administrative discharge board (ADB). On 19 July 1979, an ADB found that you had committed misconduct due to civil conviction, and recommended that you receive an other than honorable (OTH) discharge. Your case was forwarded and the

separation authority directed that you be separated with and OTH discharge by reason of misconduct due to civil conviction. You were so discharged on 8 August 1979.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service and desire to upgrade your discharge. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge given your six NJP's, civil conviction, and ensuing incarceration for very serious offenses. 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