



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

SJN  
Docket No: 02441-13  
26 February 2014



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 25 February 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 31 July 1974. The Board found that on 21 July 1976, you received nonjudicial punishment (NJP) for disobedience. On 8 December 1976, you were convicted by special court-martial (SPCM) of disobedience and willfully damaging government property. You were sentenced to a reduction in paygrade, a forfeiture of pay, confinement at hard labor, and a bad conduct discharge (BCD). However, on 15 January 1977, the convening authority suspended your confinement at hard labor and BCD for a period of six months. During the period from 24 May to 8 August 1977, you received three additional NJP's for disobedience, disrespect, two periods of unauthorized absence (UA) totaling 12 days and breaking restriction. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After being advised of your procedural rights, you waived the right to an administrative discharge board (ADB). On 4 November 1977, you received a fifth NJP for 35 days of UA. On 16 November 1977, your case was forwarded recommending you receive an OTH discharge. On

29 November 1977, the separation authority directed discharge under OTH conditions by reason of misconduct. You were so discharged on 28 December 1977.

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 five NJP's, one of which was after you were notified that you were being administratively separated from the Marine Corps, SPCM conviction of very serious offenses, and the fact that you were given and opportunity for retention, and to earn a better characterization of service when your adjudged BCD was suspended for six months. The Board also noted that you waived an ADB, again, your best chance for retention or a better characterization of service. 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