



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

TJR
Docket No: 2645-13
19 February 2014



This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 19 February 2014. The names and votes of the members of the panel will be furnished upon request. 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 Navy and began a period of active duty on 28 August 1978. You served without disciplinary incident until 13 November 1979 when you received nonjudicial punishment (NJP) for wrongful possession and use of marijuana.

During the period from 16 May 1980 to 2 June 1982 you were in an unauthorized absence (UA) status for 739 days and declared a deserter. However, this period of UA was dismissed with prejudice to the government due to noncompliance with the statute of limitations. Nonetheless, you were notified of administrative separation by reason of misconduct due to an extended period of UA. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 7 July 1982 an ADB recommended separation under honorable conditions by reason of misconduct. On 21 July 1982 your commanding officer stated in part, that you should have been convicted by court-martial and awarded a bad conduct discharge for the extended period of UA, but because of the failure to file a charge sheet

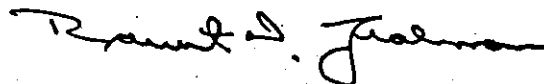
in a timely manner which resulted in the expiration of the statute of limitations, recommended discharge under other than honorable conditions by reason of misconduct. The discharge authority approved these recommendations for separation and directed discharge under other than honorable conditions by reason of misconduct, and on 15 September 1982 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and assertion that your ability to serve was impaired by your marital and family problems. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your lengthy period of UA and drug abuse. Finally, there is no evidence in the record, and you provided none, to support your assertion. Accordingly, your application has been denied.

The Board also noted that the characterization of service on your Certificate of Release or Discharge from Active Duty (DD Form 214) is incorrect in that it reads "General" under other than honorable. With that being said, the Board concluded that you were properly processed and discharged under other than honorable conditions and that the word "General" is in error.

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