



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

TJR
Docket No: 3113-13
19 February 2014

[REDACTED]

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 Marine Corps and began a period of active duty on 27 June 1968. You served for nearly six months without disciplinary incident but during the period from 17 December 1968 to 8 March 1969 you received nonjudicial punishment (NJP) on four occasions for two periods of absence from your appointed place of duty, two specifications of disrespect, failure to go to your appointed place of duty, two specifications of failure to obey a lawful order, and disobedience. On 10 September 1969 you were convicted by civil authorities of embezzlement and grand automobile theft. You were sentenced to confinement for six months and probation for three years.

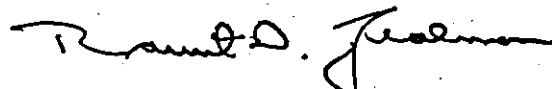
On 5 March 1970 you were convicted by special court-martial (SPCM) of a 245 day period of unauthorized absence (UA). Shortly thereafter, on 11 May 1970, you were the subject of an investigation for larceny in the amount of \$80, being an accessory after the fact, and wrongful possession of altered identification cards. On 18 November 1970 you submitted a written request for an other than honorable discharge in order to

avoid trial by court-martial for impersonating a noncommissioned officer, wrongfully wearing awards, disrespect, and a 140 day period of UA. Prior to submitting this request you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 8 December 1970 your request was granted and the commanding officer was directed to issue you an other than honorable discharge by reason of the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 14 December 1970 you were issued an other than honorable discharge.

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 you believe you were eligible for discharge under an amnesty program. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct in both the military and civilian communities which also resulted in your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. Accordingly, your application has been denied.

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