



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

SJN
Docket No: 04009-13
1 May 2014

[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 30 April 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.

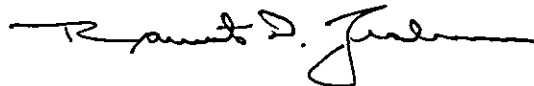
You enlisted in the Marine Corps and began a period of active duty on 2 April 1975. The Board found that during the period from 24 September 1975 to 3 September 1976, you received three nonjudicial punishments (NJP's) for disobedience, sleeping on post, and two instances of being absent from your appointed place of duty. On 13 October 1976, you were convicted by special court-martial (SPCM) of being absent from your appointed place of duty, disobedience, use of disrespectful language, and sleeping on post. You were sentenced to a forfeiture of pay, confinement at hard labor, and a reduction in paygrade. On 16 November 1976, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You elected to consult counsel and have your case heard before an administrative discharge board (ADB). On 11 January and 10 June 1977, you received NJP for wrongful possession of marijuana, disobedience,

and unauthorized absence. On 24 June 1977, the ADB recommended separation with an other than honorable (OTH) discharge by reason of misconduct due to a pattern of misconduct. On 12 October 1977, your commanding officer concurred with the ADB's findings and forwarded his recommendation that you be discharged. The separation authority concurred and directed an OTH discharge by reason of misconduct. On 25 October 1977 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your record of service and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your five NJP's, two of which were after you were notified that you were being administratively separated from the Marine Corps, and SPCM conviction. 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