



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

TAL
Docket No: 6215-13
7 July 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 25 June 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 30 January 1976 at age 17. You received nonjudicial punishment (NJP) on two occasions for failure to obey a lawful order from a superior commissioned officer and unauthorized absence (UA) from your unit for a period of 14 days. On 16 March 1978, you were UA from your unit for a period of 52 days. On 15 May 1978, you were again UA from your unit for a period of 91 days. While pending trial by court-martial for the forgoing periods of UA you alleged you told your recruiter you wrongfully used marijuana. The recruiter allegedly disregarded your disclosure and concealed your admission of illegal drug use on your application for enlistment. The required waiver was not obtained and your enlistment was the product of recruiter misconduct. It was determined that individuals who fraudulently enlisted in the service with the complicity of their recruiters

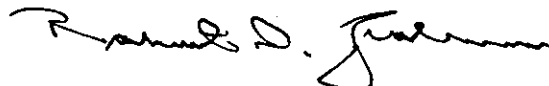
were insulated from trial by court-martial for any offenses they committed. You were notified of pending administrative discharge processing with a general discharge due to misconduct. You waived all of your procedural rights. On 22 November 1978, you received the general discharge for misconduct (fraudulent enlistment).

Characterization of service is based in part on conduct marks assigned on a periodic basis. Your conduct average was 3.0. At the time of your service, a conduct average of 4.0 was required for a fully honorable characterization of service.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant a change in your characterization of service given the seriousness of your misconduct that resulted in two NJPs, periods of UA totaling over five months, and insufficiently high conduct mark average. Finally, there is no provision of law or in Marine Corps regulations that allows for recharacterization of service due solely to the passage of time. 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