



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

TJR
Docket No: 3285-13
3 March 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 25 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 23 October 1959. You served for nearly two years without disciplinary incident, but during the period from 24 October 1961 to 10 December 1962, you received nonjudicial punishment (NJP) on three occasions and were twice convicted by summary court-martial (SCM). Your offenses were wrongful possession of a false identification card, a five day period of unauthorized absence (UA), wrongfully carrying a .38 pistol into Mexico, absence from your appointed place of duty, disrespect, failure to go to your appointed place of duty, failure to obey a lawful order, and possession of an unclean rifle.

On 26 March 1963 you were the subject of an investigation regarding your participation in homosexual acts. In this regard, you admitted to "hustling or rolling" homosexuals for money, rings, clothing, and gifts. You further admitted to assaulting

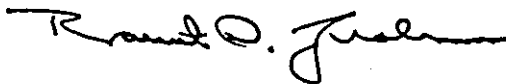
and robbing a homosexual while on leave and being arrested by civil authorities. Nonetheless, you denied participating and/or engaging in any homosexual acts.

On 22 May 1963 you were notified of administrative separation by reason of unfitness due to participating in indecent acts or offenses. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 18 July 1963 an ADB recommended separation under other than honorable conditions by reason of unfitness. Shortly thereafter, on 26 July 1963, you were convicted by civil authorities of second degree burglary, and sentenced to confinement for one year, which was suspended, and probation for two years. Subsequently, your commanding officer, in concurrence with the ADB, also recommended separation under other than honorable conditions by reason of unfitness due to misconduct due to conviction by civil authorities. The discharge authority approved these recommendations for separation and directed an other than honorable discharge by reason of unfitness, and on 29 July 1963 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your post service conduct and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repeated misconduct which resulted in three NJPs, two SCMs, and conviction by civil authorities. 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