



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

BJG
Docket No: 3480-13
12 February 2014

[REDACTED]

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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 11 February 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

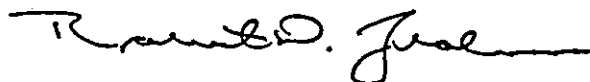
The Board found that you enlisted in the Navy Reserve on 12 November 1975. On 22 January 1990, you were convicted in civil court in Norfolk, Virginia, of frequenting a public place for lewdness. On 23 May 1990, you admitted to the Naval Investigative Service that you had received oral sex from a man in the woods at a rest area in Norfolk, Virginia, which was witnessed by a civilian police officer. You were notified that your commanding officer was recommending you for administrative separation with an other than honorable (OTH) discharge due to

misconduct. You exercised your procedural right to have your case heard by an administrative discharge board (ADB). The ADB met, found you had committed misconduct based on your conviction and personal admission, however, it recommended retention. You were retained on active duty. On 5 August 1996, you were placed on the Temporary Disability Retired List, and assigned a waivable RE-3P (temporary disability) reentry code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your many years of honorable service and the repeal of the "Don't ask, don't tell" homosexual policy. However, the Board concluded that the derogatory material should not be removed from your record in light of the aggravating circumstances of your admission to public lewdness and civil conviction. In view of the above, 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