



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

SJN
Docket No: 03639-13
24 April 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 22 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 Navy and began a period of active duty on 17 September 1964. The Board found that on 21 June 1965, you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) totaling four days and disobedience. On 29 October 1965, you were convicted by special court-martial (SPCM) of 42 days of UA. You were sentenced to a reduction in paygrade, confinement at hard labor, and a forfeiture of pay. On 15 December 1965, you submitted a sworn statement admitting to participating in homosexual acts. You further stated that one incident occurred for compensation and another while incarcerated with another service member. Subsequently, administrative discharge action was initiated and it was recommended that you receive an undesirable discharge by reason of unfitness as evidenced by your own admission. After being afforded all of your procedural right to an administrative discharge board (ADB), your case was forwarded and you received an undesirable discharge on 10 January 1966.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and desire to have your characterization of service changed. Nevertheless, the Board concluded these factors were not

sufficient to warrant recharacterization of your discharge given your NJP, SPCM conviction, and sworn statement that you engaged in a homosexual act for compensation and other homosexual acts while confined with other servicemembers. In this regard, the Board noted that you admitted to participating in homosexual acts under aggravating circumstances that have an adverse impact on morale and discipline. In your case, you received money to engage in a homosexual act and participated in homosexual acts while confined, which are sufficient even under current standards to warrant an undesirable discharge. The Board noted that you waived the right to an ADB, your best chance for a better characterization of service. The Board concluded your discharge was proper as issued and no change is warranted. 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