



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

JRE  
Docket No. 08398-07  
19 September 2008



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 September 2008. 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 entered on initial active duty for training in the Marine Corps Reserve (USMCR) on 27 May 2003, at 27 years of age. On 13 August 2003, you sought medical care for knee pain of about six weeks duration. You were released from active duty on 23 August 2003. On 13 July 2004, you reported for a second period of active duty for training. As your knee became painful shortly thereafter, a magnetic resonance imaging (MRI) study of your knee was ordered. The MRI which was conducted on 24 September 2004 showed mild diffuse thinning of

the articular cartilages of the knee, with very minimal osteopytosis, and a small amount of joint fluid. The results were otherwise within normal limits. On 10 November 2004, you signed a medical record entry in which you were advised that you were considered physically qualified for release from active duty; that to receive disability benefits from the Department of the Navy you must be unfit to perform the duties of your office, grade, or rating because of disease or injury incurred while entitled to basic pay; and that after separation, claims for disability benefits must be submitted to the Department of Veterans Affairs. A certified physician's assistant reviewed your record at that time. He determined that a focused physical examination was not indicated, and that you were physically qualified for separation. You were released from active duty on 16 November 2004.

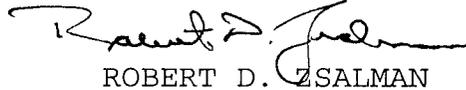
Due to your continued complaints of knee pain, your commanding officer requested that your case be referred to the Chief, Bureau of Medicine and Surgery (BUMED), for a determination of your qualification for continued affiliation with the USMCR. On 28 February 2005, the Chief, BUMED, advised the Commanding General, Marine Force Reserve, that you were not physically qualified for retention in the USMCR due to patellofemoral syndrome and patellar tendonitis. You were discharged from the USMCR on 8 April 2005.

The Board was not persuaded that you were unfit for duty by reason of physical disability that was incurred in or aggravated by your service in the USMCR. The Board concluded that given the minimal degenerative changes in your knee, it is likely that you would have been processed for administrative separation by reason of a condition, not a disability, which interfered with your performance of duty, had you been on extended active duty in the USMC, rather than by reason of physical disability. In addition, the Board concluded that the determination of the Chief, Bureau of Medicine and Surgery, that you were not physically qualified for retention in the USMCR is not tantamount to a finding that you were unfit for duty by reason of physical disability, and it is not probative of the existence of material error or injustice in your case. 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,

A handwritten signature in black ink, appearing to read "Robert D. Zsalmán", written in a cursive style.

ROBERT D. ZSALMAN  
Acting Executive Director