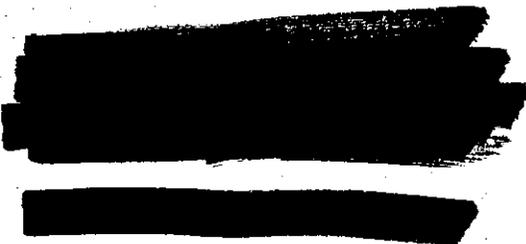




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL
Docket No: 2807-13
21 February 2014



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 12 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

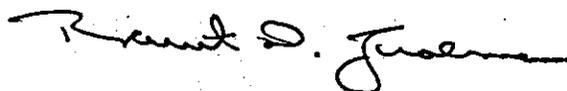
You enlisted in the Marine Corps and began a period of active duty on 18 July 1966 at age 18. You received nonjudicial punishment (NJP) on two occasions for failure to obey a lawful order and insubordinate conduct toward a noncommissioned officer. On 17 June 1969, you were convicted at general court-martial (GCM) of committing an act of sodomy by force upon another Marine and assault of a Marine with intent of committing sodomy. The sentence imposed was confinement at hard labor, a forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). On 9 June 1970, you received the BCD after appellate review was complete.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, Vietnam combat service and overall record of service. Nevertheless, the

Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two NJPs and a GCM. Finally, no discharge is automatically upgraded due to the passage of time or an individual's good behavior after discharge. 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