



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

TJR
Docket No: 7340-13
18 August 2014



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 13 August 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 Navy on 13 March 1968 at age 18 and served about five months without disciplinary infraction. However, on 28 August 1968, after undergoing a medical evaluation, you admitted to participating in a homosexual act with a civilian. As a result, you were the subject of an investigation concerning your participation in homosexual conduct. At that time you submitted a written statement regarding your participation in a homosexual act for money, specifically, \$5. Your statement further noted the possibility of you continuing to participate in homosexual conduct.

On 2 October 1968, you received nonjudicial punishment (NJP) for a 10 day period of unauthorized absence (UA). The punishment imposed was restriction and extra duty for 30 days and reduction

to paygrade E-1. Subsequently, you were notified of pending administrative separation by reason of unfitness due to homosexuality as evidenced by you engaging in, attempting to engage in, or soliciting another to engage in a homosexual act or acts for compensation. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 18 October 1968 your commanding officer recommended separation under other than honorable conditions by reason of unfitness. On 25 October 1968 the discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of unfitness. On 1 November 1968 you received NJP for a one day period of UA and were awarded restriction for 10 days and extra duty for five days. Shortly thereafter, on 13 November 1968, you were issued an other than honorable discharge by reason of unfitness.

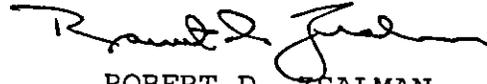
On 29 August 1980, the Naval Discharge Review Board (NDRB) recharacterized your service as general under honorable conditions by reason of unfitness. On 7 July 1981, you were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) which reflects the foregoing characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, request for a full pardon, and desire to upgrade your general discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct for compensation, which resulted in two NJPs, and your participation in homosexual conduct. Further, although you were given an opportunity to defend yourself and chose to waive your procedural right to present your case to an ADB, NDRB negated these actions and recharacterized your service as being under honorable conditions. However, the Board concluded that further recharacterization of your discharge is not warranted given your participation in homosexual acts for compensation, which is sufficient, even under current standards, to warrant an other than honorable discharge. 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,

A handwritten signature in cursive script, appearing to read "Robert D. Zsalmán".

ROBERT D. ZSALMAN
Acting Executive Director