



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001

TAL  
Docket No: 7035-13  
14 August 2014

[REDACTED]

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 6 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.

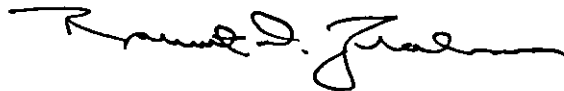
You enlisted in the Navy and began a period of active duty on 5 January 1999 at age 19. On 8 February 2002, you were the subject of a Navy investigation regarding your participation in a homosexual act in public view in a parking lot on board the Naval Air Station North Island, San Diego, California. You made a verbal and written statement, that you considered yourself to be bisexual. As a result, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to homosexual acts. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 16 May 2002, the ADB

found that you committed misconduct and recommended that you be separated with an OTH. The separation authority agreed with the recommendation of the ADB and directed your commanding officer to issue you an OTH characterization of service due to homosexual acts and on 5 June 2002, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge under the "Don't ask - don't tell" policy repeal. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge due to your participation in a homosexual act in open public view on board Naval Air Station North Island. This is sufficient, even under current standards, to warrant an OTH 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