



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 5383-98

19 April 1999

[REDACTED]

Dear [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 14 April 1999. 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 reenlisted in the Navy on 18 December 1950 for four years as an ABAB (E-3). At the time of your reenlistment, you had completed nearly two years of prior active service.

The record reflects that you were advanced in rate to AB1 (E-6) and served without incident until 30 December 1953 when you were questioned by an agent of the Office of Naval Intelligence on suspicion of homosexuality. You admitted to passive participation in several homosexual acts with civilians. On the same day, you agreed to accept an undesirable discharge for the good of the service in lieu of trial by general court-martial. Thereafter, the commanding officer recommended that you be separated with an undesirable discharge by reason of unfitness due to homosexuality. An enlisted performance evaluation board was convened in the Bureau of Naval Personnel on 8 January 1954 and recommended an undesirable discharge by reason of unfitness due to homosexuality. On 12 January 1954, the Chief of Naval

Personnel directed an undesirable discharge by reason of unfitness. You were so discharged on 5 February 1954.

On 29 May 1980, the Naval Discharge Review Board upgraded your undesirable discharge to an honorable discharge.

In its review of your application, the Board conducted a careful search of your service record for any mitigating factors which might warrant changing the reason for your discharge. However, no justification for such a change could be found. The Board noted that your DD Form 214 shows only "unfitness" as the reason for your discharge. At the time, this reason for separation was correct for an individual discharged due to homosexual acts. Additionally, under current standards, the DD Form 214 would clearly indicate that the separation was for homosexual acts or admission. Further, at the time of your separation, individuals could be discharged for unfitness due to a number of different reasons other than homosexual conduct. You were clearly unfit for naval service by your admission to participation in homosexual acts and changing the reason for discharge to convenience of the government would be inappropriate. The Board concluded that the reason for discharge was proper 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,

W. DEAN PFEIFFER
Executive Director