



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

CRS
Docket No: 1061-02
23 May 2002

[REDACTED]

[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 22 May 2002. 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 enlisted in the Navy on 23 February 1999 at age 20. The record reflects that on 17 April 2000 you signed a statement acknowledging homosexual conduct. On 24 May 2000 you received an honorable discharge by reason of homosexual conduct admission. At that time, you were assigned a reenlistment code of RE-4.

The Board noted that an RE-4 reenlistment code is authorized by regulatory guidance and must be assigned to individuals who are discharged for homosexuality. The Board also noted your contention to the effect that you falsely claimed to be a homosexual in order to be discharged. It is well established in law that an individual who perpetrates a fraud in order to be discharged should not benefit from the fraud when it is later discovered. In this regard, the Board could not determine if you were lying then or lying now. 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