



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

FC
Docket No: 06562-02
24 January 2003



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 15 January 2003. 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 31 October 2000 at age 26. You then served without incident until 8 January 2003 when you admitted to another Sailor that you were gay and said that you wanted to be discharged.

On 29 January 2002, the commanding officer recommended that you be honorably discharged by reason of your admission, and advised you of the right to an administrative discharge board (ADB). However, you waived your rights to an ADB, and on 19 February 2002, the Bureau of Naval Personnel authorized your discharge. Accordingly, on 1 April 2002, you were honorably discharged by reason of "homosexual conduct admission", and assigned a reenlistment code of RE-4.

In its review of your case, The Board carefully weighed all potentially mitigating factors such as your division officer's recommendation, and your final overall performance mark average of 3.0. However, the Board found that these factors were not sufficient to warrant a change in the reason for your discharge or the reenlistment code. Current guidance states that an individual who states he is homosexual may be discharged for that reason since such a statement creates a presumption that the individual engages in homosexual acts, or intends to do so, or has a propensity to do so. The Board also noted that an RE-4 reenlistment code must be assigned to individuals who are discharged for homosexuality.

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