



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

REC
Docket No: 06660-10
18 March 2011

MR JAMES L MIKE #51922
NORTHERN NEVADA CORRECTIONAL CENTER
PO BOX 7000
CARSON CITY NV 897

Dear Mr. Mike:

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 17 March 2011. 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 27 April 1959, at age 18. On 22 October 1959, you admitted to a special agent during an investigation that you had engaged in homosexual acts prior to your enlistment and during your time of service with civilian males for the receipt of money. On 27 October 1959, you were informed that you were being administratively separated by reason of unfitness (homosexuality) as evidenced by your own admission. You then elected to waive your right to consult counsel, submit a statement or have your case heard by an administrative board (ADB). On 3 November 1959, your commanding officer forwarded his recommendation to discharge you by reason of unfitness (homosexuality) with an other than honorable (OTH) discharge. On 13 November 1959, the discharge authority directed that you be separated with an OTH discharge by reason of unfitness (homosexual conduct admission) and assigned a reenlistment code of RE-4. You were so discharged on 23 November 1959.

The Board, in its review of your entire record, carefully weighed all potentially mitigating factors, such as your record. Nevertheless, the Board concluded these factors were not sufficient to warrant changing your characterization for discharge, given your homosexual admission. In this regard, the

Board noted that you admitted to participating in homosexual acts under aggravating circumstances by receiving compensation. The Board also noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. The Board concluded your discharge was proper as issued and that 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