



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

REC
Docket No: 10614-10
27 July 2011

[REDACTED]
[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 27 July 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 5 November 1987, at age 19. On 15 June 1989, you received nonjudicial punishment (NJP) for committing sodomy with a crewmember on two occasions. You confessed to participating in homosexual acts and experiences with a male Sailor onboard a naval vessel. As a result, you were processed for an administrative discharge by reason of homosexuality as evidenced by your own admission. You then elected to waive the rights to consult counsel, submit a statement or have your case heard by an administrative board. On 19 June 1989, your commanding officer forwarded his recommendation to discharge you by reason of homosexuality with a discharge under other than honorable (OTH) conditions. On 22 June 1989, the discharge authority directed that you be separated with an OTH discharge by reason of homosexuality. You were so discharged on 31 July 1989. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your entire record, carefully weighed all potentially mitigating factors, such as your youth, immaturity, and admission. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your misconduct. In this regard, the Board noted that you admitted to participating in homosexual acts

in a location subject to military control under aggravating circumstances that have an adverse impact since it occurred aboard a vessel. In your case, since the activity occurred onboard a naval vessel, it is sufficient even under current standards to warrant an OTH discharge. The Board concluded your discharge was proper as issued 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