



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

BJG
Docket No: 8234-13
5 September 2014



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 4 September 2014. 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 and began a period of active duty 13 September 1978. You received nonjudicial punishment on two occasions and were convicted by a special court-martial. Your offenses included destruction of government property, assault (two instances), being drunk and disorderly, communicating a threat, performing an indecent act for indirect compensation, resisting apprehension, and breach of the peace. You also committed the following acts for which no disciplinary action was taken: being drunk and disorderly, assault, and

wrongful possession, introduction, and transfer of a controlled substance. You were then notified that your commanding officer was recommending you for administrative separation with an other than honorable (OTH) discharge due to homosexuality. You waived your procedural right to have your case heard by an administrative discharge board (ADB). On 19 February 1982, you were discharged under OTH conditions due to homosexuality, and assigned an RE-4 (not recommended for retention) reenlistment code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth, drug and alcohol abuse, and the repeal of the "Don't ask, don't tell" homosexual policy. However, the Board concluded that your application should be denied in light of the aggravating circumstances of your committing an indecent act for indirect compensation and other serious misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. In view of the above, 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,



ROBERT J. O'NEILL
Executive Director