



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

CRS
Docket No: 695-02
27 December 2002



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 11 December 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 Naval Reserve on 5 October 1981 and reported to active duty on the same day. You then served for about two years without incident.

The record in your case is incomplete. However, the record does contain a message, dated 12 October 1983, stating that you admitted to being a homosexual, were being processed for separation because of that admission, and had waived the right to present your case to an administrative discharge board. After review by the discharge authority, on 15 October 1983, the recommendation for discharge was approved. On 31 October 1983 you were honorably discharged by reason of homosexuality.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your contention that you are not a homosexual. However, the Board concluded that these factors were not sufficient to warrant a change in the reason for your discharge since you admitted your sexual preference while on active duty. The Board also noted that you now claim to have

lied about being a homosexual, and that your one homosexual act resulted from an assault by two other Sailors. Unfortunately, the Board could not determine if you were lying then or lying now. Nevertheless, the law is very clear that an individual who procures a discharge by fraud should not benefit from the fraud when it is discovered. The Board thus concluded that there was no error or injustice in the reason for discharge. 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