



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

TJR  
Docket No: 2846-02  
27 November 2002

[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 26 November 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 22 June 1998 at the age of 20. On 2 November 1998 you submitted a written statement in which you admitted to participating in homosexual acts and said that you would continue to participate in homosexual activities. In your statement you also requested separation.

On 9 November 1998 you were notified of pending administrative separation action due to your admission of homosexual conduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board. Subsequently, your commanding officer recommended an entry level separation due to admission of participation in homosexual conduct and intent to continue engaging in homosexual acts. This recommendation was approved and the discharge authority directed an uncharacterized entry level separation by reason of homosexual admission. On 8 April 1999 you were so separated and assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that the discharge was forced on you. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant a change in your separation or reenlistment code. The Board concluded that your admission that you participated in homosexual conduct was sufficient to support the entry level separation and the assignment of an RE-4 reenlistment code. In this regard, such a code must be assigned to individuals who are separated due to admission of participation in homosexual acts. 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