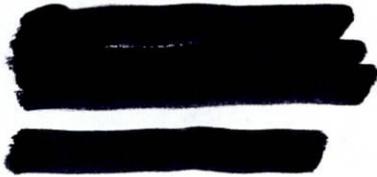




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

REC
Docket No: 00530-10
30 September 2010



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 29 September 2010. 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 16 May 1960, at age 18. On 20 June 1961, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status for one day. On 18 August 1961, you were convicted at a summary court-martial (SCM) of two instances of failure to go to your appointed place of duty, and failure to obey a lawful order. You were sentenced to a forfeiture of \$20, and 20 days confinement at hard labor. On 20 September 1961, you were UA for one day. However, your chain of command chose not to impose any disciplinary action. On 21 September 1961, you confessed to participating in homosexual acts and experiences with female Sailors onboard a military installation to the Office of Naval Investigation (ONI), and submitted a written statement. As a result of this investigation 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 9 October 1961, your commanding officer forwarded his recommendation to discharge you by reason of unfitness for

homosexuality with a discharge under other than honorable conditions. On 13 October 1961, the discharge authority directed that you be separated with an other than honorable discharge by reason of homosexuality. You were so discharged on 1 November 1961.

The Board, in its review of your entire record, carefully weighed all potentially mitigating factors, such as your youth, immaturity. 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 comparable to the impact of such activity aboard a vessel or aircraft. In your case, that activity occurred in berthing spaces aboard Naval Station, Great Lakes, Illinois, which is sufficient even under current standards to warrant an other than honorable 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