



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

RDZ:ecb
Docket No. 08134-10
12 November 2010

[REDACTED]

[REDACTED]

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

You enlisted in the Navy on 21 January 1999 for a term of four years. Unfortunately you only served a little more than two years and three months and were administratively separated with a general discharge due to your admission of having engaged in multiple homosexual acts with a civilian for about a year. Your disciplinary record shows you received nonjudicial punishment (NJP) for being disrespectful to a superior commissioned officer. Following your admission of homosexual activity naval authorities reviewed your case and ordered that you be administratively separated with the type of discharge warranted by your overall record of service. Under Navy regulations Sailors whose behavior mark falls below 2.5 are not eligible for a

honorable discharge. Your record shows that your behavior mark was 2.0 and was due to the NJP you received on 1 March 2000.

In its review of your application the Board concluded that in view of your failure to achieve the conduct mark required for an honorable discharge there was no legal or administrative error in the issuance of a general discharge. Moreover there was no unfairness or injustice since you were treated no differently than other Sailors whose behavior mark fell below 2.5.

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