



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

SJN
Docket No: 02409-11
25 August 2011

[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 23 August 2011. 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 Marine Corps and began a period of active duty on 6 March 2000. The Board found that you served without incident for over five years until 9 November 2005, when you made a voluntary statement to your chain of command of your involvement with consensual homosexual acts with another Marine. Subsequently, administrative discharge action was initiated by reason of homosexuality. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 5 May 2006, an ADB, unanimously recommended that you be separated from the service with a general discharge. Your commanding officer forwarded your case concurring with the ADB's decision to the separation authority for review. On 12 July 2006, the separation authority directed that you be separated for convenience of the government due to homosexuality with a general discharge. You were so discharged on 17 July 2006. At that time you were assigned an RE-4 reentry code. On 1 November 2010, the Navy Discharge Review Board changed your characterization of service to honorable.

The Board noted that applicable regulations require the assignment of an RE-4 reentry code to individuals who are separated by reason of homosexual acts. The Board thus concluded that there is no error or injustice in your reentry code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Concerning your request for separation pay, you may submit a written request to the Defense Finance and Accounting Service (DFAS), 6760 E Irvington Place, Denver, Colorado 80297-7000. Questions concerning the amount of payment or the method of computation should be directed to DFAS.

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