



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL

Docket No: 4472-12
18 March 2013

[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 7 March 2013. 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 and began a period of active duty on 16 October 1985 at age 18. On 9 June 1987, you made a written statement admitting to involvement in homosexual acts. You stated in part that, you wanted your letter to serve as evidence of your homosexuality. You were notified of pending administrative discharge processing with an honorable discharge due to homosexuality. You waived all of your procedural rights. On 18 June 1987, you received the honorable discharge for homosexuality and were assigned an RE-4 reentry code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, desire to change your narrative reason and reentry code, and allegation that you are not a homosexual. Nevertheless, the Board concluded these

factors were not sufficient to warrant a change in your reentry code and narrative reason, due to your admittance of homosexual acts and request for an honorable discharge. Regarding your allegation, it is well settled in the law that if a Sailor procures a discharge by fraud, he should not benefit from the fraud when it is discovered. Therefore if you lied to get out of the military as you contend, no corrective action would be appropriate. 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