



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

TJR
Docket No: 1068-01
28 June 2001



Dear [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 June 2001. 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.

The Board found you reenlisted in the Navy on 5 February 1960 after four years of prior honorable service.

Your record reflects that on 1 August 1960, during an investigation by the Office of Naval Intelligence, you submitted a written statement in which you admitted to participating in homosexual acts with other Sailors while aboard ship, for monies, and upon unwilling/sleeping partners. Shortly thereafter, administrative separation action was initiated by reason of unfitness due to homosexual involvement. At that time you elected not to make a statement in response to the proposed action. Subsequently, your commanding officer recommended that you be issued an undesirable discharge by reason of unfitness due to homosexual involvement. The discharge authority directed an undesirable discharge and on 13 September 1960 you were so discharged.

The Board, in its review of your application and entire record, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that because you were unjustly discharged for alleged homosexual behavior, you should be awarded all back benefits and entitlements. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your written statement in which you admitted to participating in homosexual acts. The Board noted that, even under current standards, homosexual acts performed without the consent of the other party, acts performed aboard ship, and acts performed for compensation, are sufficient to warrant an other than honorable discharge. The Board also concluded that you received the benefit of your bargain with the Navy when you were discharged at your request rather than being tried by court-martial, which could have resulted in a lengthy period of confinement as well as a punitive discharge. The Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The Board further noted that as a result of your prior honorable service you may be eligible for veterans' benefits and should contact the nearest office of Department of Veterans Affairs if you desire clarification about your eligibility for such benefits.

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