



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

CRS
Docket No: 4854-01
3 January 2002

[REDACTED]

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

The Board found that you enlisted in the Navy on 22 August 1997 at age 20. On 15 January 1998 you acknowledged your homosexuality in a written statement. Subsequently, on 12 February 1998 you received an entry level separation by reason of homosexual admission. At that time you were assigned a reenlistment code of RE-4.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity. However, the Board concluded that these factors were not sufficient to warrant a change in the reason for your discharge since you admitted your sexual preference while on active duty. Current guidance states that an individual who states he is homosexual may be discharged since such a statement creates a presumption that the individual engages in homosexual acts, or intends to do so, or has a propensity to do so.

The Board also noted that an RE-4 reenlistment code must be assigned to individuals who are discharged for homosexuality.

The Board thus concluded that there is no error or injustice in your reenlistment code.

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