



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

TJR
Docket No: 1339-02
15 August 2002



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 13 August 2002. 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 on 16 September 1957 at the age of 17.

On 26 February 1960, after undergoing a psychiatric evaluation, you reported that you had an homosexual affair about a year prior to being hospitalized, and that you had committed sodomy with two children, ages 8 and 9. You were then diagnosed as an overt sexual deviate with homosexuality and pedophilia. At that time you were found to be legally sane, and there was no evidence of any psychotic or neurotic trends. You were able to cooperate in your own defense and knew right from wrong. You were subsequently found fit for full duty, and recommended for an administrative separation.

Subsequently, you were processed for an administrative separation by reason of unfitness due to homosexuality as evidenced by your admission to participating in homosexual activities. The discharge authority directed an undesirable discharge, and on 25 March 1960 you were so discharged.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity and your contention that at the time of your discharge, homosexuality was classified as a mental disorder. It also considered your contention that you were not properly evaluated or diagnosed as homosexual, and that you were not given treatment for the diagnosed homosexuality. Nevertheless, the Board found these factors and contentions were not sufficient to warrant recharacterization of your discharge given your admission to participating in homosexual activities, especially, your homosexual involvement with children. Even under today's standards, an individual who commits homosexual acts with a person under the age of 16 may be discharged under other than honorable conditions. Further, there is no evidence in the record, and you submitted none, to support your contentions of being improperly diagnosed as homosexual, or improperly denied treatment for homosexuality. 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