



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

CRS  
Docket No: 3557-02  
9 May 2002

[REDACTED]

[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 8 May 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Naval Reserve after one year of prior active service. The record reflects that you were convicted by a special court-martial of an unauthorized absence of a day and missing movement. Subsequently, in a written statement of 16 April 1952, you acknowledged committing homosexual acts.

On 28 April 1952 the commanding officer recommended that you be separated with an undesirable discharge by reason of unfitness due to homosexual acts. After review by the discharge authority, the recommendation was approved and you were discharged with an undesirable discharge on 20 June 1952.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and the contention that you lied about being homosexual since you could not stand being seasick any longer. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge. In this regard, the Board

noted that current policy states that characterization of service for individuals discharged for homosexuality will not normally be under other than honorable conditions. However, the Board also noted that you lied about being homosexual in order to be discharged. The law is very clear that an individual who procures a discharge by fraud should not benefit from the fraud when it is discovered. 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