



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

TAL
Docket No: 11436-10
27 July 2011

[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 20 July 2011. The names and votes of the members of the panel will be furnished upon request. 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 Marine Corps and began a period of active duty on 23 June 1966 at age 18. On 9 November 1966, while under investigation by the Office of Naval Intelligence (ONI), you stated in part that you first realized you possessed homosexual tendencies while in recruit training but had never engaged in such acts. On 13 December 1966, you made another statement to ONI. You admitted that in January 1966 you were picked up while hitchhiking and participated in homosexual acts for money and fair to New Jersey. On 31 March 1967 you were convicted by summary court-martial of unauthorized absence (UA) from your unit for a period of 19 days. On 6 June 1967, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (fraudulent enlistment). After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 26 June 1967, you received nonjudicial punishment for UA from your unit for a period of four days. On 13 July 1967 the ADB found that you committed misconduct and recommended that you be separated with an OTH discharge. On 15 December 1967, you were

convicted by special court-martial of UA from your unit for a period of 35 days. The sentence imposed was confinement for four months, and a forfeiture of pay. The convening authority suspended two months of confinement and the forfeiture for six months. The commanding officer concurred with the ADB and forwarded his recommendation to the separation authority. On 22 January 1968, you again received NJP for insubordinate conduct toward a noncommissioned officer. The separation authority agreed with the findings and recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct due to fraudulent enlistment, and on 29 March 1968, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two NJPs, one SCM, one SPCM and your admission of participation in homosexual acts prior to enlistment for compensation which is sufficient, even under current standards, to warrant an OTH discharge. 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