



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2401-99

15 October 1999

[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 5 October 1999. 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 enlisted in the Navy on 31 July 1979 at the age of 20. Your record reflects that on 27 March 1980 you received nonjudicial punishment (NJP) for theft. The punishment imposed was restriction and extra duty for 20 days and forfeitures totalling \$100. Shortly thereafter, on 22 May 1980, you received NJP for a four day period of unauthorized absence (UA). The punishment imposed was restriction for six days.

On 18 December 1981 you reported to the command's medical officer that you were bisexual and had engaged in homosexual acts with civilians.

Your record further shows that on 23 January 1982 you received NJP for a 32 day period of UA and possession of marijuana. The punishment imposed was restriction and extra duty for 45 days and forfeitures totalling \$686. On 28 January 1982 you were notified of pending administrative separation action due to homosexuality. At this time you waived your right to consult with legal counsel, however, you submitted a written statement in which you admitted to participating in homosexual acts. On 2 February 1982 your

commanding officer recommended you be separated by reason of homosexuality. On 18 February 1982 the discharge authority directed your commanding officer to issue you a general discharge by reason of homosexuality. On 26 February 1982, while awaiting your separation, you received your fourth NJP for a 21 day period of UA and breaking restriction. The punishment imposed was confinement on bread and water for three days. Shortly thereafter, on 3 March 1982, you received a general discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you would like your discharge upgraded so that you may obtain a license for employment. The Board also considered your contentions that you were discharged four months short of your expiration of enlistment. However, the Board concluded these factors were not sufficient to warrant a change in the characterization your discharge given the seriousness of your frequent misconduct which included larceny, possession of drugs, and multiple occasions of UA, and resulted in four NJPs. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. 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