



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

TRG
Docket No: 1329-99
5 November 1999

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 2 November 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 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 15 July 1952 at age 19. The record shows that you then served without incident for about 31 months. During this period you completed training as a corpsman and were advanced to HM3 (E-4). On 23 March 1954 you made a statement admitting to homosexual acts in the barracks during recruit training, in other barracks after the completion of recruit training and while on duty as a corpsman. In addition, you admitted to other acts which could be viewed as having been committed openly in public view. Based on your admission you were processed for discharge. On 15 April 1954 the discharge authority approved the recommendation of your commanding officer that you be discharged for unfitness with an undesirable discharge. You were so discharged on 28 May 1954.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your contention that you would not receive a discharge under other than honorable conditions if current regulations were applied in your case. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge. In

this regard, the Board noted that current regulations allow for discharge under other than honorable conditions for homosexuality if certain aggravating factors are present. The factors as they apply to your case are the commission of homosexual acts openly in public view or "in another location subject to military control under aggravating circumstances that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft." The Board believed that your commission of certain homosexual acts in an open barracks during the afternoon, and other acts while on watch were aggravating factors, which could lead to discharge under other than honorable conditions under current regulations. The Board concluded that the 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