



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

TRG
Docket No: 3168-01
11 December 2001

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 4 December 2001. 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.

You enlisted in the Navy on 9 June 1958 at age 17 and served without incident until 9 March 1960. On that date you received nonjudicial punishment for wearing inappropriate civilian attire. On 9 July 1960 you were arrested by civilian authorities on a morals charge. Subsequently, you were confined for 60 days in lieu of a \$100 fine.

On 28 July 1960 you made a statement to a Navy investigator in which you admitted to being in a room with three others and participating in homosexual acts. You also admitted taking money on several occasions after committing homosexual acts with individuals who picked you up on the street. You were delivered to the Navy from civilian confinement on 27 September 1960. On 12 October 1960 you were notified of separation processing by reason of unfitness. In connection with this processing, you elected to waive your right to have your case heard by an administrative discharge board. After review, the discharge authority directed an undesirable discharge and you were so discharged on 31 October 1960.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your youth and limited education. The Board also considered your contention that under current standards, you would not receive the same type of discharge. You state that you were asleep on the floor and the police assumed that you were participating in homosexual acts with others in the room. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge. Current regulations allow for the issuance of a discharge under other than honorable conditions if certain aggravating factors are present. Those factors, as they apply to your case are performance of a homosexual action openly in public view and committing homosexual acts for compensation. Given your statement of 28 July 1960, the Board believed that both of these aggravating factors are present in your case. Accordingly, 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