



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

CRS  
Docket No: 3784-99  
27 June 2000

[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 20 June 2000. 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 Marine Corps on 27 June 1958 at age 18.

You then served without incident for more than two years. The record reflects that on 3 July and 6 August 1960 you engaged in acts of sodomy with the same Marine aboard ship. On the latter date, your homosexual act was observed by another person. On 24 August 1960 you made a sworn statement to an agent of the Office of Naval Intelligence that you had committed a homosexual act with a fellow Marine aboard ship.

On 2 November 1960 an administrative discharge board recommended that you be separated with an undesirable discharge by reason of unfitness due to homosexual acts. You appeared before this board with counsel. After review by the discharge authority, the recommendation was approved and you were discharged with an undesirable discharge on 6 December 1960.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your youth and immaturity and the period of good service. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the circumstances surrounding your homosexual activity since your homosexual conduct falls within at least one of the aggravating factors set forth in current regulations. Specifically, it appeared to the Board that the homosexual acts occurred on board a naval vessel and at least one act took place openly and in public view. Thus, even under current standards, a discharge under other than honorable conditions would be appropriate in your case. In view of the foregoing, the Board has concluded that the facts and circumstances of your case fail to show either a material error or injustice. 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