



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

CRS
Docket No: 8158-06
4 February 2008

[REDACTED]

This is in reference to your application for correction of your late husband's 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 16 January 2008. 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.

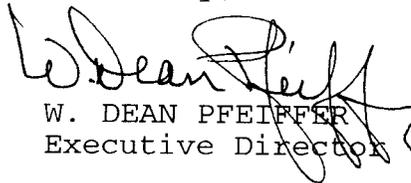
The Board found that your husband enlisted in the Navy on 22 January 1957. He received two nonjudicial punishments, for possession of another man's clothing and possession of four knives and a razor that were government property. On 19 May 1959 he made written statements in which he admitted that he had brought a gun onboard his ship, and that he had committed homosexual acts with a civilian, as well as with a Sailor in the ship's berthing area, which he solicited. On 12 June 1959 his commanding officer recommended that he be separated from the Navy by reason of unfitness, with an undesirable discharge. He was discharged on 7 July 1959 in accordance with the approved recommendation of his commanding officer.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your husband's youth at the time in question, his lifelong regret and shame over his conduct, his good post service and his being a good father to seven children. The Board concluded that those factors were insufficient to warrant recharacterization of his discharge. In this regard, the Board noted that current policy provides that the characterization of service for individuals discharged for homosexuality will not normally be under other than honorable

conditions; however, such a characterization is authorized for individuals such as your husband who commit homosexual acts onboard a ship, in public view, or who solicit another individual to commit a homosexual act. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade his discharge, 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