



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

CRS

Docket No: 3084-07

8 May 2008

[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 30 April 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.

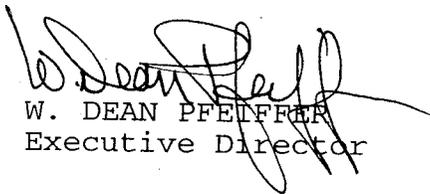
The Board found that you enlisted in the Navy Reserve on 20 February 1964. You received three nonjudicial punishments for unauthorized absences totaling four days. On 12 October 1965 you made a sworn statement in which you admitted that you had engaged in homosexual acts on several occasions aboard a naval vessel and in public view. You received an undesirable discharge by reason of unfitness/homosexual acts on 7 December 1965.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and the fact that the Department of Veterans Affairs (VA) determined that your service was honorable for the purpose of establishing your basic eligibility for VA benefits. The Board concluded that those factors were insufficient to warrant recharacterization of your service. In this regard, the Board noted that current policy of the Department of Defense 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 who commit homosexual acts aboard a naval vessel and/or in public view. Further, the aforementioned determination of the VA was made under policies applicable to that department, and has no bearing

on the issue of the propriety of your undesirable discharge from the Navy. 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