



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

CRS
Docket No: 4216-07
20 February 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 13 February 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 on 30 August 1962. On 30 August 1963 you received nonjudicial punishment for absence from appointed place of duty, dereliction of duty, and sleeping in an unauthorized place. On 12 February 1965 you made a sworn statement in which you admitted that you had committed several homosexual acts onboard your ship, two of which were in the ship's berthing area. On 19 February 1965 your commanding officer recommended that you be separated from the Navy by reason of unfitness, with an undesirable discharge. You were discharged on 15 March 1965 in accordance with the approved recommendation of your commanding officer.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth at the time in question and that you voluntarily related the homosexual information. The Board concluded that those factors were insufficient to warrant recharacterization of your 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 who commit homosexual acts onboard a ship and in

public view. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade your 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