



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

CRS
Docket No: 9713-07
2 December 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 8 October 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 4 October 1951. You received four captain's masts for offenses that included making a false official statement, dereliction of duty, direct disobedience of a lawful order, and larceny.

On 31 March 1954 you submitted a written request for the good of the service in lieu of trial by court-martial for fondling a Sailor without his consent on 2 August 1953 while on board a naval vessel, and fondling another Sailor without his consent on 15 September 1953 while aboard a naval vessel. On 2 April 1954 you received a fifth captain's mast for absence from your appointed place of duty. Your request for discharge was approved by the discharge authority, and you received an undesirable discharge on 4 June 1954.

The Board did not accept your unsubstantiated contentions to the effect that the discharge was accomplished in violation of naval policy and regulations and without due process; you did not commit the offenses which resulted in your discharge; and that you confessed to acts you did not commit as the result of intimidation and coercion. The Board noted that you were not

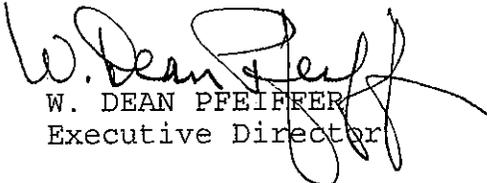
discharged by reason of homosexuality, as you contend, but for committing two sexual assaults, and rejected your contention to the effect that you would not have received an undesirable discharge had current standards and policies been in effect in 1954. The Board noted that even if you had been discharged due to your commission of consensual homosexual acts, the application of current standards would not result in a more favorable discharge given the numerous aggravating factors present in your case, to include committing homosexual acts in public view and while aboard a naval vessel.

The Board carefully evaluated all potentially mitigating factors in your case, such your youth and personal situation at the time in question, overall record of service, which was marred by numerous acts of misconduct and five captain's masts, and your post-service conduct and personal development, but found those factors insufficient to warrant the recharacterization of your service. The Board found that considerable clemency was extended to you when your request for discharge was granted, as you avoided the possibility of being conviction by court-martial and sentenced to confinement at hard labor and a punitive discharge. You received the benefit of your bargain and should not be permitted to change it now.

In view of the foregoing, 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