



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

CRS
Docket No: 9782-07
19 November 2008

[REDACTED]

[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 19 November 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 16 October 1963. On 13 April 1965 you admitted to having engaged in numerous homosexual acts from the age of 16, to include receiving money for oral sex acts before you enlisted, and performing sex acts in a barracks and in public view after you enlisted.

On 12 May 1965 your commanding officer recommended that you be separated from the Navy with an undesirable discharge by reason of unfitness due to homosexual acts. After being informed of that recommendation and of your rights in connection thereto, you waived the right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and you were separated on 4 June 1965 with an undesirable discharge.

The Board carefully weighed all potentially mitigating factors present in your case, such as your youth, and your unsubstantiated contentions to the effect that you were a victim of circumstances who was falsely accused of being a homosexual, and you are not a homosexual. The Board concluded that those factors were insufficient to warrant the recharacterization of your service. In this regard, the Board noted that current

Department of Defense 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 for compensation, in public view, and aboard military installations, as you did. 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