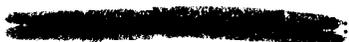




DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

CRS  
Docket No: 3170-08  
18 May 2009



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 May 2009. 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 24 January 1968. You received four nonjudicial punishments for offenses that included unauthorized absences and missing movement.

On 30 June 1969 an administrative discharge board recommended your separation due to your statement that you had committed numerous homosexual acts in cars with civilians. You received a general discharge by reason of unfitness due to homosexual acts on 5 August 1969.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and overall service record, as well as your belief that your discharge would be "considered honorable" after a certain period of time. The Board concluded that those factors are insufficient to warrant the upgrade of your general discharge. It concluded that you were fortunate to have received a general discharge, given your

extensive disciplinary record. It noted that there are no provisions of law or regulation for the upgrade of a discharge based solely on the passage of time. In addition, the Board noted that under current policy pertaining to the discharge of service members for homosexuality, a general discharge would be permissible in a case such as yours. 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,



ROBERT D. ZSALMAN  
Acting Executive Director