



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

CRS
Docket No: 3295-08
17 June 2009

[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 10 June 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 31 January 1963. You received two nonjudicial punishments and were convicted by a special court-martial for offenses that included unauthorized absences totaling 45 days, failure to obey a lawful order, and leaving your appointed place of duty without a relief. On 23 October 1963 a psychiatric evaluation found no evidence of significant depression, disabling neurosis, or psychosis.

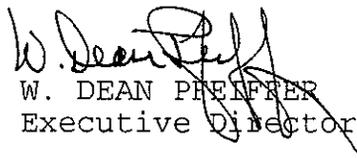
On 4 December 1963 your commanding officer recommended that you be separated with an undesirable discharge by reason of unfitness due to homosexual acts based on your admission that you had been a homosexual since the age of 16. When informed of this recommendation, you waived the right to consult with counsel and to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and on 16 December 1963 you were separated with an undesirable discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and the contention that psychological problems caused your misconduct, but found those factors insufficient to warrant the upgrade of your discharge. In addition, the Board found that had current discharge standards been in effect in

1963, you would have been processed for separation by reason of misconduct and homosexuality, and could have received a discharge under other than honorable conditions. 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