



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

CRS
Docket No: 4976-08
14 July 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 2 July 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 7 June 1988. On 26 June 1990 you made a written statement in which you admitted being a homosexual and having committed a homosexual act with another Sailor in the fan room of your ship.

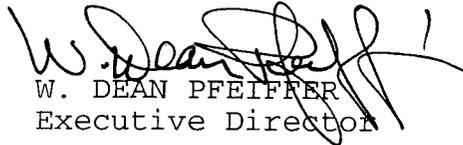
On 27 June 1990 your commanding officer recommended that you be separated with a discharge under other than honorable conditions by reason of homosexuality. On 28 June 1990 you received nonjudicial punishment for solicitation to commit an indecent act. After review by the discharge authority the recommendation for discharge was approved and you received a discharge under other than honorable conditions on 19 July 1990.

The Board carefully weighed all potentially mitigating factors, such as your youth, alleged good overall service, and the contention that you were discriminated against because of your race. The Board concluded that those factors were insufficient to warrant recharacterization of your service. In this regard, the Board noted that current policy of the Department of Defense 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 aboard a naval vessel. Furthermore, the Board was not persuaded that you were falsely accused of misconduct because of your race. 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