



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

CRS
Docket No: 11464-08
11 January 2010

[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 6 January 2010. 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.

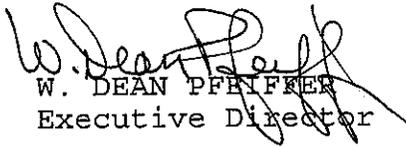
The Board found that you enlisted in the Navy on 1 October 1964. You were convicted by two special courts-martial for offenses that included two periods of unauthorized absence, failure to go to appointed place of duty, failure to obey a lawful order, and breaking restriction. On 31 August 1965 your commanding officer recommended your separation based on your statement that you had committed numerous homosexual acts with civilians for compensation during your enlistment. You received an undesirable discharge by reason of unfitness due to homosexual acts on 17 September 1965.

The Board carefully weighed all potentially mitigating factors, such as your youth, overall service, and your belief that your discharge would be automatically upgraded six months after you were discharged. The Board concluded that those factors were insufficient to warrant recharacterization of your discharge, given the serious nature of your military offenses. In addition, there is no provision of law or regulation for the automatic upgrade of a discharge. 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