



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

TJR
Docket No: 3195-09
11 March 2010



This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 9 March 2009. The names and votes of the members of the panel will be furnished upon request. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 27 December 1984 at age 17 and began a period of active duty on 16 September 1985. You served without disciplinary infraction until 23 August 1986, when you were photographed and apprehended for participating in homosexual acts onboard your ship, specifically, in the berthing compartment. On 9 September 1986 you were convicted by special court-martial (SPCM) of sodomy and sentenced to confinement at hard labor for 60 days, reduction to paygrade E-1, and a \$500 forfeiture of pay.

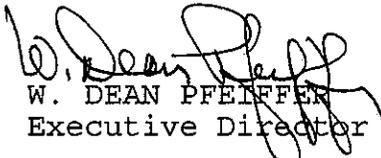
On 20 October 1986 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense as evidence by sodomy and homosexuality. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). Subsequently, an ADB recommended discharge under honorable conditions by reason of misconduct due to commission of a serious offense as evidenced by

sodomy and homosexuality. On 22 January 1987 your commanding officer, in concurrence with the ADB, also recommended discharge under honorable conditions by reason of misconduct. On 3 April 1987 the discharge authority approved these recommendations and directed your commanding officer to issue you a general discharge, under honorable conditions by reason of misconduct due to commission of a serious offense, and on 6 May 1987, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in a court-martial conviction. Finally, no discharge is automatically upgraded due solely to an individual's good post service conduct or the passage of time. Accordingly, your application has been denied.

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