



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

CRS
Docket No: 4233-09
30 June 2009

[REDACTED]

Dear [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 24 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 Marine Corps on 27 June 1963. You received two nonjudicial punishments and were convicted by two special courts-martial for offenses that included unauthorized absences, failing inspection, missing movement by design, and breaking restriction. On 2 March 1966 an investigative report found that you had committed homosexual acts while in the brig. On 20 May 1966 you received an undesirable discharge by reason of unfitness due to sodomy.

The Board could not determine if you lied in 1966 in order to procure your discharge, as you imply in your application, or if you lied in your application in the hope of receiving a more favorable discharge. Relief is not warranted in either case. If you procured your discharge through fraud, you should not be allowed to benefit further by revealing the fraud. If your admission of homosexual conduct was true, you were properly discharged. In addition, there is no evidence of posttraumatic disorder in your record to substantiate your contention that it caused your misconduct. 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