



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

CRS
Docket No: 4265-09
2 October 2009

[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 10 September 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 20 February 1973. You received nonjudicial punishment on two occasions for offenses that included breach of the peace and failure to obey a lawful order.

A general court-martial convened on 12 September 1974 and found you guilty of two specifications of committing sodomy upon military members. The court sentenced you to confinement at hard labor for 42 months, forfeiture of \$250.00 pay per month for 42 months, reduction in pay grade, and a bad conduct discharge. You were separated from the Navy with a bad conduct discharge on 30 October 1975.

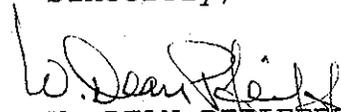
In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and overall service, as well as your contention that Florida law enforcement officials have advised you that you are not required to register in Florida as a sex offender. The Board concluded that the mitigating factors present in your case are insufficient to warrant re-characterization of your service, given your extensive

disciplinary record and the serious nature of your offenses, as indicated by the lengthy sentence to confinement at hard labor that was adjudged in your case. The Board noted that the advice you received from Florida law enforcement officials indicates that the persons upon whom you committed sodomy were adults when the offenses occurred. It is immaterial to the issue of your guilt or innocence of those offenses.

In view of the foregoing, 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