



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

CRS
Docket No: 4495-09
23 November 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 16 October 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 24 July 1979. On 15 November 1983 an administrative discharge board recommended your separation due to homosexual acts that were committed openly in public view, with a subordinate, and on board a military installation. You received a discharge under other than honorable conditions by reason of misconduct due to homosexuality on 23 November 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and overall record of service. The Board concluded that those factors were insufficient to warrant recharacterization of your service. In this regard, the Board noted that current policy provides that the characterization of service for individuals discharged for homosexuality will not normally be under other than honorable conditions; however, such characterization is authorized for individuals who commit homosexual acts with subordinates, openly in public view, and on board a military installation, as you did. 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