



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

TJR
Docket No: 9424-10
13 October 2010

[REDACTED]

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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 5 October 2010. 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 18 May 1948 at age 19 and began a period of active duty. You served without disciplinary incident until 25 December 1950, when you received captain's mast (CM) for being absent from your appointed place of duty for nearly 13 hours.

In February 1952 you were the subject of an investigation regarding your unsolicited participation in homosexual conduct, which was observed by another Sailor. This homosexual conduct, specifically, fondling the penis of two other Sailors while they were sleeping, was only terminated when you were startled by a witness of your acts. As a result, you submitted a written statement in which you admitted to exhibiting unusual sexual behavior, to include homosexual tendencies, and participating in homosexual acts after excessively consuming alcoholic beverages.

Your statement also included participation in homosexual acts with a civilian in 1948. In this regard, on 11 March 1952, you submitted a written request for an undesirable discharge for the good of the service for participating in scandalous conduct tending to the destruction of good morals as evidenced by the 1948 indecent, lewd, and lascivious acts.

It appears that the foregoing request was denied because you were subsequently processed by an administrative separation by reason of unfitness due to sexual perversion as evidenced by your frequent participation in homosexual acts with both military personnel and civilians. Subsequently, the discharge authority directed your commanding officer to issue you an undesirable discharge by reason of unfitness, and on 1 July 1952, 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, period of satisfactory service, post service conduct, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your participation in homosexual acts which included unsolicited acts on fellow Sailors while they were sleeping. 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