



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

SJN
Docket No: 04667-11
15 February 2012

[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 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 14 February 2012. 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 and began a period of active duty on 12 October 1965. The Board found that on 22 December 1965, you received nonjudicial punishment (NJP) for one day of unauthorized absence (UA). On 1 January 1966, you submitted a sworn statement to your executive officer admitting to participating in homosexual acts. In your statement you admitted, in part, that you engaged in homosexual acts with another Sailor in the "Forecastle of the ship, after dark, during the movies while the ship was at sea." You also admitted that you did the same with a second Sailor "about a half dozen times on the ship. On the ship, we did this in the bow of the ship and inside the deck house of the main deck in a cargo storage area." On 27 January 1966, you submitted a written request for a good of the service discharge in order to avoid trial by court-martial for your involvement in homosexual activity. Prior to submitting this request for discharge, you

conferred with a qualified military lawyer, were advised of your rights, and were warned of the probable adverse consequences of accepting such a discharge. Your request for discharge was granted and on 16 February 1966, you received an other than honorable (OTH) discharge for the good of the service in lieu of trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and belief that these activities are acceptable in today Navy. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP, and sworn statement of homosexual acts while onboard ship. In this regard, the Board noted that you admitted to participating in homosexual acts under aggravating circumstances that have an adverse impact on morale and discipline. In your case, you committed these acts while onboard a naval vessel under aggravating circumstances, which is not acceptable in today's Navy, and is sufficient even under current standards to warrant an OTH discharge. The Board also concluded that you received the benefit of your bargain with the Navy when you were discharged rather than being tried by court-martial, which could have resulted in a lengthy period of confinement as well as a punitive discharge. The Board concluded your discharge was proper as issued and no change is warranted. 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