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

TAL
Docket No: 5347-10
25 March 2011

[redacted]

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 17 March 2011. 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 and began a period of active duty on 9 November 1943 at age 19. On 24 January 1944, you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your unit. On 3 April 1944, you received NJP for failure to obey a lawful order. On 15 May 1944, you were convicted by summary court-martial (SCM) of neglect of duty and disobeying a lawful order. On 30 March 1945, you received NJP for two instances of UA from your unit. In March 1945, you were the subject of a mental health evaluation regarding your participation in homosexual acts. On 21 May 1945, you submitted a written statement regarding participation in homosexual acts with Sailors on board a Navy installation. As a result, you were notified of pending administrative separation action by reason of unfitness. Subsequently, in connection with this processing, you would have acknowledged the separation action and the separation authority would have approved a recommendation for separation. The record clearly shows that on 24 August 1945, you were discharged with an undesirable discharge due to unfitness.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in three NJPs, one SCM and your admission of participation in homosexual acts with other Sailors on a navy installation which is sufficient, even under current standards, to warrant an other than honorable discharge. 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

W. DEAN PFEIFFER
Executive Director