



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

[REDACTED]  
Docket No: 5394-17  
DEC 15 2017

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of the naval record of your father, George Arnott, pursuant to the provisions of title 10 of the United States Code, section 1552.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 September 2017. 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, relevant portions of your father's naval record and applicable statutes, regulations and policies.

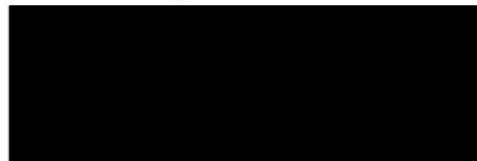
Your father began a period of active duty in the Navy on 14 May 1939. His service record reflects various disciplinary actions including one nonjudicial punishment (NJP) for absence from sentry post of duty, two summary court martials for several offenses included absence without authority, missing ships movement, resisting arrest, and refusal to obey a lawful order. On 2 March 1943, at general court martial proceedings, he was found guilty of scandalous conduct tending to the destruction of good morals, specifically two specifications of oral sex in a public toilet in [REDACTED] with a young civilian male. The Court sentenced him to confinement and a dishonorable discharge. He was discharged from the Navy on 18 March 1945, with a dishonorable discharge pursuant to the sentence of the general court martial proceedings.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material or injustice. The Board considered your family's request for an upgrade to his characterization of service as a matter of clemency. When making its determination, the Board carefully reviewed the letter submitted on his behalf and considered that your father had a strained relationship with his Commanding Officer (CO), and was in his "crosshairs." The Board noted that your father believed that his CO arranged to slip him a "mickey" and that your father recalled waking up in the brig and being told he had engaged in a homosexual act.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your father's character of service under "Don't Ask, Don't Tell" (DADT) repeal of 10 U.S.C. § 654. Please be advised that the DADT Repeal Act provides service discharge review boards with the authority to grant requests to change character of service when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it, and the circumstances of the discharge do not include aggravating factors. The Board concluded the repeal of the DADT policy is not sufficient to warrant relief in your case, given the aggravating factor of the commission of a homosexual act with a young male openly in a public restroom. The Board noted the assertion that your father was drugged and set up by his CO, but noted that he had the opportunity to present a defense at the court martial processing and was nonetheless found guilty. The Board concluded that given that the court martial proceedings were executed without error or injustice, and in light of the aggravating factors surrounding the sexual act, the Board found that the current characterization was properly issued. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence 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,



Executive Director