



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

JRE
Docket No: 658-02
10 May 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, widow of Subject, filed enclosure (1) with this Board requesting, in effect, that Subject's naval record be corrected to show that he was retired by reason of physical disability prior to his death.
2. The Board, consisting of Ms. Moidel and Messrs. Carlsen and Morgan, reviewed Petitioner's allegations of error and injustice on 28 March 2002 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Enclosure (1) was filed in a timely manner.
 - c. Subject enlisted in the Navy on 18 September 1997. He was hospitalized at a civilian medical facility on or about 19 July 1999 for treatment of viral meningoencephalitis. He died on 24 July 1999 of cardiopulmonary arrest, secondary to a pulmonary embolism, secondary to the viral meningoencephalitis.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that had the severity of Subject's condition been recognized, he would have undergone expedited disability evaluation, and been retired by reason of physical disability prior to his death. Accordingly, the Board finds the existence of an injustice warranting the correction of his reenlistment code.

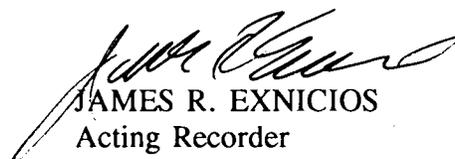
RECOMMENDATION:

a. That Subject's naval record be corrected to show that on 22 July 1999, the Secretary of the Navy found him unfit to perform the duties of his rate by reason of physical disability because of viral meningoencephalitis, which was incurred while he was entitled to basic pay, and was ratable at 100% under VA Schedule for Rating Disabilities code 8099-8000; and that as the condition may be permanent, the Secretary directed that he be released from active duty on 22 Jul 1999, and transferred to the Temporary Disability Retired List effective 23 July 1999, pursuant to 10 U.S. Code 1202, with a disability rating of 100%.

b. That a copy of this Report of Proceedings be filed in Subject's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


FR W. DEAN PFEIFFER
Executive Director