



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

Docket No: 6816-07
17 October 2008

[REDACTED]

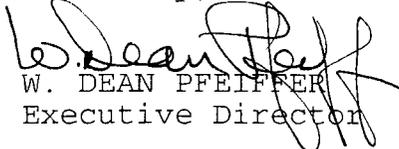
This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 October 2008. 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. In addition, the Board considered the advisory opinion furnished by Headquarters Marine Corps dated 2 June 2008, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection the Board substantially concurred with the comments contained in the advisory opinion. 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

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1650
MMMA-3
2 Jun 08

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: REQUEST FOR ADVISORY OPINION IN THE CASE OF FORMER
[REDACTED]

Encl: Locating Information

1. A review of [REDACTED]'s official military record, the records of this Headquarters, those of the Navy Department Board of Decorations and Medals, and those of the Fleet Marine Force, Pacific, failed to reveal any evidence that he was ever recommended for the award of the Bronze Star Medal or any other personal decoration.

2. Policy established by the Secretary of the Navy requires that award recommendations for the Bronze Star Medal must be submitted within 3 years and approved within 5 years of the act or service as well as delineates the process the Marine Corps and the Navy must utilize in reviewing award recommendations submitted beyond these time limits.

3. In order to consider Mr. [REDACTED] for the award of the Bronze Star Medal for his service in the Marine Corps during the Vietnam Conflict, an award recommendation must be submitted in accordance with 10 U.S.C. § 1130. This federal statute provides for the consideration of award recommendations that were not processed in a timely manner if the former commanding officer or another officer who has personal knowledge of the individual's service submits an administratively complete award recommendation package to this Headquarters through a member of Congress.

4. The administratively complete award recommendation package must consist of the following: (1) a Personal Award Recommendation (OPNAV 1650/3) (which includes the specific date(s) (day, month, and year) of Mr. Breidenbach's service) routed through his original chain of command for their review, comments, and recommendations; if all of the members of the chain of command are deceased, the recommending officer must include a signed statement indicating this fact, (2) a detailed summary of action since the recommended award will be considered based solely on its merits, (3) a proposed award citation, and (4) two notarized statements from eyewitnesses with their contact information. The eyewitnesses, not to include [REDACTED] must submit statements containing a complete description in their own words of his actions.

5. We realize that certain officers in his former chain of command may no longer be living; however, this fact does not eliminate any of the above mentioned requirements. Furthermore, aside from the legal and administrative requirements, the burden of constructing an award recommendation fairly and equitably decades after the fact can be acutely challenging. Congress addressed this challenge during their committee meetings concerning the enactment of 10 U.S.C. § 1130. Specifically, the Services are not required to assemble any part of the award recommendation package or conduct any research concerning these awards. The requestor is obligated to conduct all of the research including locating the service member's former commanding officer, members of his former chain of command, and any eyewitnesses.

6. Consequently, until such time as an administratively completed award recommendation package is submitted on behalf of [REDACTED] in accordance with 10 U.S.C. § 1130, we can take no further action. Moreover, an award recommendation package that does not contain all of the above-mentioned requirements, regardless of its submission through a member of Congress, will be returned without action.

7. During the period [REDACTED] served in the Marine Corps, the Purple Heart was authorized for award to those who were wounded or injured as a direct or indirect result of action by an enemy of the United States or an opposing armed force of a foreign country in which the Armed Forces of the United States was engaged. Verification of entitlement must be made by official entries in the service or medical records and/or casualty reports.

8. A review of his service and medical records revealed that he is entitled to one Purple Heart Medal for wounds received in action against the enemy on February 10, 1969, in Vietnam. Although the page 9 of his service record revealed that he received gunshot wounds to the right side of his neck and right thigh on February 10, 1969, while participating in Operations Dawson River South and Dewey Canyon, a review of his records and the records of this Headquarters failed to reveal that he received these wounds on two separate occasions. Information from his medical record revealed that he received gunshot wounds to his right deltoid area and to the left body of the mandible.

9. Since there is no indication in the records that he was ever injured on two separate occasions as a direct or indirect result of enemy action in Vietnam, regulations provide that he may obtain and submit eyewitness statements. The eyewitness statements can be from the medical officer who treated him in the field or two other personnel who were present at the time he was injured. Statements should contain the time, place, medical attention received, and detailed

verification of the circumstances of the injury and the relation to enemy action. A Notary Public must notarize these statements or they will not be accepted. If he can provide the above information, further consideration will be given to his request. The enclosure provides information to assist you in locating Marines from his former unit.

10. Point of contact at MMMA is Ms. D. McKinnon at (703) 784-9340.



E. M. HENSEN
Lieutenant Colonel, USMC
Asst Head, Military Awards Branch
Personnel Management Division
By direction of the
Commandant of the Marine Corps