



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

TRG
Docket No: 9699-07
18 November 2008



This is in reference to your application for correction of your late father's 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 13 November 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 late father's naval record and applicable statutes, regulations and policies.

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.

It is clear from the record, that when your late father transferred to the Retired Reserve in 1986 he was qualified for retired pay at age 60 and he had to have been aware of this entitlement. Individuals in the Retired Reserve with eligibility for pay at age 60 must request transfer to the Retired List in order to receive retired pay. Your father became age 60 on 21 April 2002 and died on 28 June 2007. Therefore, he had over five years in which he could have requested his retired pay but did not do so. Additionally, the Navy Personnel Command has confirmed that he never made a Reserve Component Survivor Benefit Plan election.

In the absence of evidence to the contrary, the Board concluded that for whatever reason he made a knowing and competent decision not to receive his retired pay. Since his entitlement to pay ended with his death there is now no basis for any payment of his retired pay.

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