



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

JRE
Docket No. 11571-08
12 January 2009



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. You requested, in effect, that your record be corrected to show that you were retired on or about 30 September 1979 by reason of a combat-related disability.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 January 2009. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, the Board found that although your condition, stage IV mantle cell lymphoma, has been linked to your presumed exposure to Agent Orange, that condition was not diagnosed until the year 2000, more thirty years after you transferred to the Fleet Marine Corps Reserve. In the absence of evidence which demonstrates that you were suffering from lymphoma in 1979, and that you were unfit for duty because of that condition, there is no basis for granting your request

for corrective action. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board noted that you should consider submitting a request for concurrent receipt of disability and retired pay to the Defense Finance and Accounting Service, or for combat-related special compensation from the Combat Related Special Compensation Board, Secretary of the Navy Council of Review Boards.

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,

A handwritten signature in black ink, appearing to read "Robert D. Zsalmán", written in a cursive style.

ROBERT D. ZSALMAN
Acting Executive Director