



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

LCC
Docket No. 165-09
10 Mar 09



Dear [Redacted]

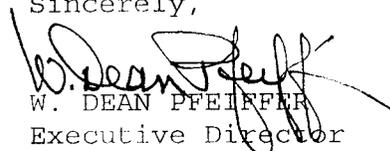
This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 March 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. In addition, the Board considered the advisory opinion furnished by CNO memorandum 7220 Ser N130E2/09U0127 of 4 March 2009, 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 also 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
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

7220

Ser N130E2/09U0127

MAR -4 2009

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters

Subj: REQUEST FOR BCNR ADVISORY OPINION ICO [REDACTED]

Ref: (a) Joint Federal Travel Regulation (JFTR)
Encl: (1) BCNR Case File #165-09

1. Per your request, the following recommendation concerning enclosure (1) is provided.
2. In Enclosure (1) [REDACTED] states that his shipment of HHG from [REDACTED], upon termination of ADSW, to his HOR in the [REDACTED] was misrouted and as a result arrived after the intended delivery date, there by forcing him to reside in a hotel at his home of record from March 2008 to 9 August 2008. [REDACTED] states that payment of per diem during this time will compensate him additional expenses and lost income incurred during that time.
3. The member was not on duty during the period of 26 March to 9 August 2008. N130E has confirmed that the member did contact his former employing office and asked for an extension of his orders for a short period (a week), that office declined to extend his order since his former position had already been filled by another officer. In order to pay per diem, the record will have to be changed to show that the member was on duty in full status, thus requiring payment of base pay and allowances, plus per diem while at his HOR. Per Diem cannot be paid unless in full pay status, and only while not at the HOR. It is unclear why the member found it necessary to reside in a hotel while at his HOR. It is also noted that shipment of HHG was not authorized, it appears that the basis for this appeal is without foundation.
4. N130E recommends that the record not be changed to authorize per diem, or any other pay and allowance, during a period of non-duty. If the member has a claim for lost income due to Navy induced error, that claim should be submitted through the claims process.

J. BOWEN
Travel and Transportation
Allowances Section (N130E)