



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

JRE
Docket No. 03467-10
10 March 2011

This is in reference to your application for correction of your late husband'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 10 February 2011. 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 husband'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.

The Board carefully considered your contention to the effect that the line of duty/misconduct determination made in your husband's case should be reversed because it is not supported by sworn testimony of witnesses, but found it insufficient to warrant corrective action in your case. The Board noted that there is no requirement that an adverse line of duty/misconduct determination be supported by sworn testimony of witnesses. The Board concluded that you failed to demonstrate that your husband's death was not the proximate result of his reckless operation of a motorcycle at an excessive rate of speed. 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