



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD SUITE 1001
ARLINGTON, VA 22201-2490

WJH
Docket No: 5523-11
4 Jan 2012

[REDACTED]

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This is in reference to your application for correction of 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 4 January 2012. Your allegations of error and injustice were reviewed in accordance with the 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 the Chief of Naval Personnel letter 4650 Ser N130C/11U0948 of 26 Oct 2011, a copy of which is attached and was previously furnished to you.

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. There is no evidence to support your claim that you were retained on active duty over your objection back in 2001. You have not submitted a copy of your orders. You have stated that you "do not recall" whether you received a "separate set of orders." You have not substantiated your claim.

The Board also notes that under the rules governing this Board, an application for a correction of a naval record must be made within 3 years of the alleged error or injustice. Failure to file a timely application may be excused only in cases where the Board finds that it is in the interests of justice to do so. This common-sense standard exists because delay in asserting a

claim can cause prejudice to the Navy's ability to fairly adjudicate the claim. Over time, memories fade, policies change, people move and records are lost or destroyed. A claim should not be allowed when information necessary to fairly adjudicate the claim has been lost due to the excessive passage of time. According to your application, you were scheduled for release from active duty in 2001. You could have identified any problem with stop loss pay years ago. Perhaps, if you had done so, your entitlement could have been more easily determined. The inability to corroborate your claim is directly related to the tardiness of your claim. In the Board's view, you should bear the consequences of your own inaction. Under these circumstances, the Board determined that no relief is warranted. 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