



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 1184-21

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Dear █

This is in reference to your application for correction of your husband's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your late husband's naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 October 2021. The names and votes of the members of the panel will be furnished upon request. 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, relevant portions of your husband's naval record and applicable statutes, regulations, and policies. In addition, the Board considered the advisory opinion contained in Navy Personnel Command (PERS-00J) memorandum of 29 March 2021; a copy of which was previously provided to you for comment.

You requested to change the determination of the Line of Duty investigation of your husband's death to be found "in the line of duty." The Board, in its review of █ entire record and your application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded there was no evidence of injustice, nor any material error in the conduct, processing, or adjudication of the report of investigation into the motorcycle accident and subsequent death of your husband. The Commander, Navy Region Southwest, sent you a letter, dated 16 July 2015, stating the findings of the report of investigation with the possible effects it would have on your eligibility for Survivor Benefit Plan and other benefits and entitlements. Additionally, this letter gave you an opportunity to provide any information you felt relevant to the determination of your husband's line of duty status. You responded to this letter on 16 September 2015 stating █ decision was the wrong choice and led to his premature death. Your response affirmed the findings of the report

of investigation, and you offered no additional information relevant to the report of investigation's findings and determination. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

11/4/2021

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Deputy Director

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