



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

JLP:ddj
Docket No: 2615-98
9 February 1999

[REDACTED]

Dear [REDACTED]

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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 February 1999. 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 BUPERS memorandum M 1830 PERS 82B SER 210 of 8 December 1998, 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 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
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1830
Pers82B
Ser 210
08 Dec 98

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: COMMENTS AND RECOMMENDATIONS ICO [REDACTED]

Ref: (a) Pers-00ZCB ltr of 17 Nov 1998

1. Reference (a) requested comments and recommendations in subject member's case. Specifically, Petitioner requests that his date of discharge for retirement be changed from 19 September 1997 to 15 December 1997.
2. [REDACTED]'s medical folder was reviewed and interviews were conducted with staff that had worked with him during his disability proceedings. The following is a list of events pertinent to the recommendation:
 - 7 Mar 97: MEDBOARD convened with recommendation of Temporary Disability Retirement
 - 14 Mar 97: [REDACTED] accepted the findings of the MEDBOARD
 - 19 Jun 97: Preliminary findings of 100% rating for Transfer to the TDRL under Death Imminent findings. Member signed findings agreeing with findings.
 - 20 Jun 97: SECNAV Findings of TDRL (Imminent Death) signed. (Initial retirement under TDRL was directed for a separation date of 17 Jun 97).
 - 3 Jul 97: [REDACTED] underwent liver transplant surgery.
 - 18 Jul 97: Assistant branch head for Disability Retirements informed the branch head for retirements that [REDACTED] was going to exceed the 30 day window for a physical disability retirement directed by SECNAV Action. (Same day in the case of death imminent)
 - 19 Sep 97: Retired under TDRL at 100%.
3. It is recommended that [REDACTED] retirement date not be changed. Member was attached to Pers-82 during this ordeal and was never denied leave. [REDACTED] medical condition only allowed him to work half days and during longer periods of absence, was on convalescent leave. Members are only authorized to sell back 60 days of leave in a career. As a DKC, member knew at the time of his retirement that his accumulated leave would be lost upon his retirement. Additionally, [REDACTED] was to be retired in June but was kept on the active duty roles in a pay status for recovery from a surgery that should have taken place after his retirement date under TDRL (Imminent Death) as directed by SECNAV.

[REDACTED]
Deputy Director, Retirements