



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

WJH
Doc. No. 9300-08
27 October 2009

[REDACTED]

Dear [REDACTED]

This is in reference to your application seeking an adjustment of your retirement date from 1 June 2007 to 1 August 2007 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 26 October 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, and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by HQMC letter 1741 MMSR-2 of 16 June 2009. A copy of that letter was previously furnished to you.

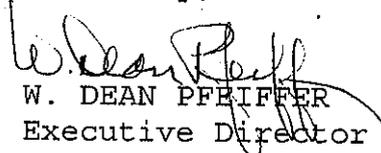
The Board members also considered your request for a personal appearance, however the Board found that the issues in your case were adequately documented and that a personal appearance would not materially add to the Board's understanding of the issues involved. Thus, your request for a personal appearance has been denied.

After careful and conscientious consideration of the entire record, a majority of 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. The Board carefully considered the evidence that you submitted in support of your application, including the information related to your March 2006 Article 138 complaint. The Board considered your assertion that you were forced to

retire two months earlier than you desired because of your command environment. However, after considering all of the evidence, the Board was not persuaded that your retirement was truly involuntary or that additional credit for active duty is warranted. Your application asserts, essentially, that you were compelled to elect a 1 June 2007 retirement date vice a 1 August 2007 retirement date due to a hostile environment at your command. The Board noted that you submitted your retirement request in January 2007 and you were seeking a June 2007 retirement date. After you submitted your retirement request, you continued to serve on active duty for a period in excess of four months until 1 June 2007 when, in accordance with your express desires, you were retired. The Board deduced from this chronology that there was no particular urgency connected with your retirement request. Thus, the Board found insufficient evidence to support your claim that your retirement on 1 June 2007 (vice a later date) was involuntary. Additionally, the Board noted that you were retired and not on active duty between 1 June 2007 and 1 August 2007. Therefore, the Board determined you were not entitled to pay and allowances for that period. 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 PFRIFFER
Executive Director

Enclosure