



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

█  
Docket No. 636-24  
Ref: Signature Date

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Dear █,

This is in reference to your application for correction of your late husband's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your 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.

A three-member panel of the Board, sitting in executive session, considered your application on 22 August 2024. 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 late husband's naval record and applicable statutes, regulations, and policies.

A review of your late husband's record reveals that he enlisted in the Navy on 22 August 2003. On 1 October 2015, he was commissioned as an ensign. Available service record documents reflect that he served a period of active duty from 4 October 2019 to 13 October 2020. You have provided a death certificate indicating that he passed away on 21 April 2023. In your petition, you request to have his naval record corrected to reflect that he had twenty "good years" in the Navy so that you may obtain retirement benefits, and you assert he had accumulated 19 years, 8 months of service at the time of his death.

To assist it in reviewing your petition, the Board obtained two advisory opinions (AO). The first AO the Board obtained was from Commander, Navy Personnel Command (PERS-9) dated 7 September 2023. The PERS-9 AO explained that, in order for a Reservist to be eligible for regular retirement, they must have 20 years of qualifying good years of service. "Upon completion of a thorough review, PERS-912 has determined █ to be ineligible for retirement." PERS-9 noted that your late husband had 19 years and 8 months of qualifying years of service at the time of death, and therefore, under federal law and Department of Defense policy, he was not eligible for retirement. PERS-9 explained further that the Navy has no

programs which allow for a Service Member to be retired posthumously and PERS-9 has no authority to grant such.

The Board next received an AO from PERS-91 dated 9 May 2024. PERS-91 explained that it added gratuity retirement points to your late husband's record, which provided him a good year in terms of retirement points, but that he still fell short of the requirement that he serve a complete year. PERS-91 did not provide, or cite, any reference that would allow for the addition of a partial year of constructive service to a service member's record such that it would allow them bridge to retirement.

The Board carefully reviewed all of your contentions and the material that you submitted in support of your request in light of the foregoing AOs, and the Board regrets that it is unable to grant you the relief requested. In reaching its decision, the Board substantially concurred with the 7 September 2023 AO from PERS-9. The Board observed that, within its own body of knowledge and experience, it is also not aware of any federal law or Department of Defense policy that would allow for the constructive bridging of time to allow for a deceased service member to reach a twenty year milestone in order to allow for retirement. Accordingly, in light of the foregoing, the Board determined that it had no choice but to deny your petition.

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,

9/18/2024

