



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

JRE  
Docket No: 5310-99  
20 September 1999

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149

1. Pursuant to the provisions of reference (a), Petitioner, surviving spouse of subject senior chief petty officer, filed enclosure (1) with this Board requesting, in effect, that her late husband's naval record be corrected to show that he was retired by reason of physical disability prior to his death.

2. The Board, consisting of Ms. Moidel and Messrs. Bartlett and Schultz, reviewed Petitioner's allegations of error and injustice on 16 September 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Subject was hospitalized on 6 July 1999 for evaluation of jaundice and a two day history of multiple symptoms, to include jaundice, fever, chills, malaise, abdominal pain, and increase in abdominal girth. His condition deteriorated rapidly and progressed to multi-organ dysfunction, sepsis and fulminate hepatic failure. A death imminent medical board was dictated at 1452 hours, 7 July 1999. Typing of the report was completed at 1612 hours. As the report was being transmitted to the Physical Evaluation Board at 1724 hours, the medical board clerk responsible for that action was advised that Subject had died at 1723 hours. Processing was terminated at that point.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Subject's disability evaluation proceedings should have been completed prior to his death. Had that processing been completed, he would have been transferred to the Temporary Disability Retired List with a rating of 100%. Accordingly, it finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Subject's naval record be corrected to show that he was transferred to the Temporary Disability Retired List on 6 July 1999, pursuant to 10 U.S. Code 1202, due to hepatic failure rated at 100% under Department of Veterans Affairs Schedule for Rating Disabilities code number 7399-7312.

b. That a copy of this Report of Proceedings be filed in Subject's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JAMES R. EXNICIOS  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director