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

JRE
Docket No: 5648-01
13 January 2003

[redacted]

[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 January 2003. 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 a specialist in urology dated 3 June 2002, 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

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3 Jun 02

From: Chief, Urology Service, National Naval Medical Center
To: Chairman, Board for Correction of Naval Records, 2 Navy Annex, Washington, DC 20370-5100
Via: Director, Restorative Care Directorate

Subj: COMMENTS AND RECOMMENDATIONS ICO [redacted]

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

Encl: (1) Bibliography
(2) BCNR File, Service Record Microfiche, VA Records/Medical Records, Docket No. 05648-01

This letter is written in response to the request to review the case of [redacted] (hereinafter referred to as SNM).

1. After review of medical records it has been assumed that SNM was diagnosed with Stage IIIB Mixed Germ Cell Cancer (90% embryonal and 10% Seminoma) on 24 June 2000. After a pre-operative work up he underwent a right radical orchiectomy followed by four cycles of a chemotherapy regimen commonly referred to as "PEB."

2. After review of medical records it has also been assumed that SNM was found to have an "atrophic right testicle," on separation physical exam performed 4 June 1998 by [redacted], who at that time was a Lieutenant Commander in the United States Navy Medical Corps.

3. The question which will be addressed in further paragraphs is: "Was the right testis cancer present at the time of separation physical of SNM?" This question will never be able to be answered definitively. Therefore, a "best opinion," will be offered with an explanation of logic supported by the evidence available in the medical record.

4. If we assume that [redacted] did truly distinguish between a "testis mass," and an "atrophic testis," (also known as small testis), then we are lead to believe that there was no evidence of testis cancer, or at least no need for further

military. Additionally, there is no evidence that SNM experienced any debilitating illness or injury, which would cause right testicular atrophy during his time of active service in the Navy. Therefore, the assumptions may be: (1) the presence of right testicular atrophy was missed on physical exam prior to entrance to the Navy or (2) SNM experienced an accident or debilitating illness during his active service in the Navy which was not documented in his medical record and resulted in the right testicle "atrophying," or shrinking, in size.

5. Because of the inability to distinguish the timeline for onset of the testicular atrophy, it is also impossible to determine whether this was an "acute" or "chronic" disease process. With the lack of findings in either the medical record or on physical exam, this reviewer is led to believe that the condition was more likely chronic and reflected a condition of childhood events. Medical records from birth to the time of physical exam prior to entry to the service may further illuminate this issue.

6. Per reference (1) in the enclosed bibliography, authors Oliver and Mead agree that the presence of testicular atrophy does indeed increase the likelihood that a testis cancer will develop in the future.

7. The pathology specimen report dated 28 June 2000, 18:27, supports that the right testis was no longer atrophic. In fact, the testicular size was measured and found to be, 7x10x9 centimeters in size. This is approximately 2-5 times the size of a normal testicle depending on the individual.

8. Radiological report of SNM in the form of computerized tomography scans of the chest, abdomen, and pelvis dated 27 June 2000, 18:43, supports advanced and metastatic cancer which would classify SNM as a Stage IIIB by the M.D. Anderson staging system for testicular cancer, (bibliography reference 2).

9. When the above information is taken into consideration, including the assumptions of the timeline and etiology of the initial testicular atrophy and the potential pre-disposition to testis cancer, it is this reviewer's opinion that the condition of testis cancer DID NOT EXIST at the time of separation physical examination. The fact that the testis was noted to be small in 1998 and found to be severely enlarged after removal in 2000 supports the pathologic process as one of rapid growth over time.

10. A testicular malignancy consisting of 90% embryonal and 10% seminomatous germ cell components could spread to the level of metastasis equivalent to Stage IIIB in less than two years. In fact, the time it takes for a germ cell tumor to double in size, "doubling time," is felt to be as short as 10-30 days in the case of embryonal cell carcinoma.[3] Even when SNM is given the longest possible doubling time, it can be assumed that he had an approximate 4-6 month period from no tumor to one of the size stipulated on the pathology report referenced in paragraph 8 of this memo. A 4-6 month retrospective period would not make it likely that a tumor existed in the right testis at the time of separation physical examination.

11. It is the reviewer's hope that the logic applied to the information submitted is within the confines of a reasonable conclusion. If however, further questions exist please do not hesitate to contact me for further explanation.

[redacted]
LCDR MC USNR

BIBLIOGRAPHY

1. *Curr Opin Oncol* 1993 May;5(3):559-67.

2. *The M.D. Anderson Surgical Oncology Handbook* , second edition; Feig BW, et al; Lippincott Williams and Wilkins; pg. 374: 1999.

3. *Campbell's Urology*, seventh edition; Walsh, et al.; WB Saunders; pp. 2411-2425: 1998.

Enclosure (1)