



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

JRE
Docket No: 4414-00
22 February 2001

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
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, widow of Subject, filed enclosure (1) with this Board requesting, in effect, that Subject'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 Messrs. Ensley, Mazza and Silberman, reviewed Petitioner's allegations of error and injustice on 19 January 2001 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 severely injured in a motor vehicle accident during the afternoon of 2 June 2000. He was hospitalized and underwent surgery, which was completed at approximately 1930 hours, at which time he was placed on life support. Imminent death disability processing was initiated by officials of his unit at 1430 hours, 3 June 2000. Subject died at about 1515 hours, after he was removed from life support; thereafter, the imminent death processing was cancelled.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that there would have been sufficient time to complete imminent death processing in this case had it been initiated on 2 June 2000, upon Subject's hospitalization and surgical stabilization, when the severity of his condition became apparent. Accordingly, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

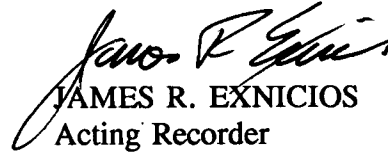
a. That Subject's naval record be corrected to show that he was permanently retired by reason of physical disability on 3 June 2000, prior to his death, pursuant to 10 U.S. Code 1201, with a disability rating of 100% for traumatic brain injury.

b. That Subject's record be further corrected to show that on 2 June 2000, with the consent of his spouse, he elected a children only annuity under the Survivor Benefit Plan, computed on the basis of the full amount of his retired pay

c. That a copy of this Report of Proceedings be filed in Petitioner'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