



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

LCC:lc
Docket No: 895-03
24 June 2003

[REDACTED]

Dear [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 24 June 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 OPNAV memorandum, 7220 Ser N130C3/03U0446, 19 June 2003, 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



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

7220 IN REPLY REFER TO:
Ser N130C3/03U04#6
19 June 2003

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, Pers-00XCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
[REDACTED]


Ref: (a) DODFMR Volume 7A, Chapter 27 February 2002
(b) Electronic Military Personnel Records System (EMPRS-98)

Encl: (1) BCNR Case File #00895-03 w/Microfiche Service
Record

1. The following recommendation concerning enclosure (1) is provided.
2. The petitioner, a member married to another military member, requests payment of Family Separation Allowance (FSA-II) from 6 September 1998 to 23 July 2001 while assigned onboard the USS KENNEDY (CV 67) homeport at Mayport, FL. While his military spouse was assigned to Naval Air Maintenance Training Group, Pensacola, FL from 3 October 1997 to 24 April 1999.
3. Per reference (a) para. 270104 (D) effective 22 Sep 96, a couple comprised of a member married to another member, with no other dependents, was entitled to FSA-II under the same general conditions as members with non-active duty dependents, provided the couple was residing together immediately before being separated by reason of execution of military orders. Only one member may be authorized FSA for the same period.
4. Reference (b) revealed that the petitioner was residing with his spouse prior to his assignment to the USS KENNEDY (CV 67) on 6 September 1998. Spouse was reassigned and reported to Personnel Support Detachment, Kings Bay, GA on 19 July 1999. Verification of the petitioner's Master Military Pay Account (MMPA) revealed payment of FSA-II (Ship) from 22 September 1999 to 18 March 2000. Verification of the spouse's MMPA revealed FSA-R entitlement from 25 June 1997 through 18 July 1999. A review of the petitioner's spouse NAVPERS 1070/602R (Page 2) revealed that husband's residence was 106 Lakewood Drive Kingsland, GA 31548 (outside Naval Station Kings Bay where spouse is stationed).

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5. IAW reference (a) both members cannot be entitled to FSA II for the same period. Therefore, N130C recommends disapproval of the petitioner's request for payment of FSA-II (Restricted).


Assistant Head, Pay and
Allowances Section (N130C)