



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

JLP:ecb
Docket No: 5447-03
28 October 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 28 October 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 CNO memorandum 7220 Ser N130C3/03U0638 dated 5 September 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

IN REPLY REFER TO:

7220
Ser N130C3/03U0638
5 Sep 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 35, Feb 02
(b) Military Pay Advisory (MPA) 81/00

Encl: (1) BCNR Case File #05447-03 w/Microfiche Service
Record

1. Per your request, the following recommendation concerning enclosure (1) is provided.
2. The petitioner is requesting authorization to sell back 46 days leave upon his first 2 months extension of a six year reenlistment contract agreement on 10 July 1998 to a new EAOS of 09 September 2004 and to reinstate 15.5 lost leave days.
3. A review of enclosure (1) revealed that he signed a 72 months operative reenlistment contract with an 2 months extension to a new EAOS of 09 September 2004. The petitioner signed a NAVPERS 1070/613 electing to carry leave over to new/extended enlistment. IAW reference (a) Table 35-4 Rule 2, members of any military service who has been on active duty for 30 days or more consecutive days and voluntarily first extends his/her enlistment regardless of duration of extension and continues on active duty in an extension period then accrued leave is payable on the day before effective date of his/her extension.
4. Defense Joint Military Pay System-Active component (DJMS-AC) uses the Last-In-First-Out (LIFO) rule to determine what leave is charged when a member uses leave. IAW reference (b) DFAS-Cleveland received a ruling that LIFO is the correct method and effective immediately DFAS-CL will no longer make adjustment of leave balances to minimize leave lost at the end of the FY based on the LIFO rule.

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5. N130C recommends disapproval of the petitioner's request to sell back 46 days LSL and to reinstated 15.5 lost leave days IAW references (a) and (b).



Assistant Head, Pay and
Allowances Section (N130C)