

## DEPARTMENT OF THE NAVY

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

TRG

Docket No: 8722 - 0719 November 2008



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 13 November 2998. 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 an advisory opinion furnished by the Office of the Chief of Naval Operations, a copy of which is enclosed, and your rebuttal thereto dated 29 September 2008.

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,

Executive Dir

Enclosure



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

7220 N130C3/08U0517 21 Jul 08

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

Encl: (1) BCNR Case File #08722-07

1. Per your request, the following recommendation concerning enclosure (1) is provided.

- 2. Enclosure (1) indicates a request to be given credit for active duty service as well as requesting full pay and allowances for use/lose leave during Permanent Change of Station (PCS) orders from USS KITTY HAWK (CV63) to PSD Pensacola, FL.
- 3. A review of the petitioner's Master Military Pay Account (MMPA) revealed the petitioner had 76.5 day of accrued leave. According to the petitioner he was not able to take any leave due to the fact that he was in a forward deployed status. There is no evidence to prove that the member was never able to take his accrued leave. The member was only allowed to sell back 15 days of accrued leave due to the fact that he had previously sold back 45 days. You are only allowed to sell back 60 days in a career and the member exceeded that resulting in a loss of 76.5 days. N130 does not have the authority to credit such active duty service back to the member.
- 4. After careful review of all the information brought forward, N130C recommends BCNR disapprove petitioners request for full pay and allowances for use/lose leave.

D. Silva

Assistant, Pay and

Allowances Section (N130C3)