

UNDER THE PROVISIONS OF TITLE 10, U.S. CODE, SECTION 1552
(Please read Privacy Act Statement and instructions on back BEFORE completing this application.)

OMB approval expires
Dec 31, 2017

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Alexandria, VA 22350-3100 (0704-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON THE BACK OF THIS PAGE.

1. APPLICANT DATA (The person whose record you are requesting to be corrected.)

a. BRANCH OF SERVICE (X one) ☒ ARMY ☐ NAVY ☒ AIR FORCE ☐ MARINE CORPS ☐ COAST GUARD
b. NAME (Print - Last, First, Middle Initial) KIMMEL, Husband E.
c. PRESENT OR LAST PAY GRADE None
d. SERVICE NUMBER (If applicable) None, but see attached.
e. SSN 129-14-0151

2. PRESENT STATUS WITH RESPECT TO THE ARMED SERVICES (Active Duty, Reserve, National Guard, Retired, Discharged, Deceased) Rear Admiral (Retired) (Deceased)
3. TYPE OF DISCHARGE (If by court-martial, state the type of court.) Honorable
4. DATE OF DISCHARGE OR RELEASE FROM ACTIVE DUTY (YYYYMMDD) Retired March 1, 1942

5. I REQUEST THE FOLLOWING ERROR OR INJUSTICE IN THE RECORD BE CORRECTED AS FOLLOWS: (Entry required)
See attached sheet.

6. I BELIEVE THE RECORD TO BE IN ERROR OR UNJUST FOR THE FOLLOWING REASONS: (Entry required)
See attached sheet.

a. IS THIS A REQUEST FOR RECONSIDERATION OF A PRIOR APPEAL? ☐ YES ☒ NO
b. IF YES, WHAT WAS THE DOCKET NUMBER? None-- see W. Dean Pfeiffer letter attache
c. DATE OF THE DECISION June 9, 1987

7. ORGANIZATION AND APPROXIMATE DATE (YYYYMMDD) AT THE TIME THE ALLEGED ERROR OR INJUSTICE IN THE RECORD OCCURRED (Entry required) Navy Department, 1948; BCNR 1987.

8. DISCOVERY OF ALLEGED ERROR OR INJUSTICE

a. DATE OF DISCOVERY (YYYYMMDD) Various
b. IF MORE THAN THREE YEARS SINCE THE ALLEGED ERROR OR INJUSTICE WAS DISCOVERED, STATE WHY THE BOARD SHOULD FIND IT IN THE INTEREST OF JUSTICE TO CONSIDER THE APPLICATION. See attached sheet.

9. IN SUPPORT OF THIS APPLICATION, I SUBMIT AS EVIDENCE THE FOLLOWING ATTACHED DOCUMENTS: (If military documents or medical records are pertinent to your case, please send copies. If Veterans Affairs records are pertinent, give regional office location and claim number.)
See attached sheet.

10. I DESIRE TO APPEAR BEFORE THE BOARD IN WASHINGTON, D.C. (At no expense to the Government) (X one) ☐ YES. THE BOARD WILL DETERMINE IF WARRANTED. ☒ NO. CONSIDER MY APPLICATION BASED ON RECORDS AND EVIDENCE.

11.a. COUNSEL (If any) NAME (Last, First, Middle Initial) and ADDRESS (Include ZIP Code)
None

b. TELEPHONE (Include Area Code)
c. E-MAIL ADDRESS THOMASKKIMMELJR@GMAIL.COM
d. FAX NUMBER (Include Area Code) N/A

e. I WOULD LIKE ALL CORRESPONDENCE/DOCUMENTS SENT TO ME ELECTRONICALLY. ☐ YES ☒ NO

12. APPLICANT MUST SIGN IN ITEM 15 BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) THOMAS K. KIMMEL, JR. and relationship by marking one box below.

☒ SPOUSE ☒ WIDOW ☒ WIDOWER ☐ NEXT OF KIN ☒ LEGAL REPRESENTATIVE ☐ OTHER (Specify)

13.a. COMPLETE CURRENT ADDRESS (Include ZIP Code) OF APPLICANT OR PERSON IN ITEM 12 ABOVE (Forward notification of all changes of address.)
184 JUNE DRIVE
COCOA BEACH, FL 32931

b. TELEPHONE (Include Area Code) 321-799-4505
c. E-MAIL ADDRESS THOMASKKIMMELJR@GMAIL.COM
d. FAX NUMBER (Include Area Code)

14. I MAKE THE FOREGOING STATEMENTS, AS PART OF MY CLAIM, WITH FULL KNOWLEDGE OF THE PENALTIES INVOLVED FOR WILLFULLY MAKING A FALSE STATEMENT OR CLAIM. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

CASE NUMBER
(Do not write in this space.)

15. SIGNATURE (Applicant must sign here.)

16. DATE SIGNED
April 7, 2017

AUTHORITY: 10 U.S.C. 1552 and E.O. 9397, as amended (SSN).

PRINCIPAL PURPOSE(S): To initiate an application for correction of military record. The form is used by Board members for review of pertinent information in making a determination of relief through correction of a military record. Completed forms are covered by correction of military records SORNs maintained by each of the Services or the Defense Finance and Accounting Service. The DoD Systems of Records Notices can be located at: <http://dpclo.defense.gov/Privacy/SORNsIndex/DODComponentNotices.aspx>.

ROUTINE USE(S): The DoD Blanket Routine Uses at <http://dpclo.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx> may apply to this collection.

DISCLOSURE: Voluntary. However, failure by an applicant to provide the information not annotated as "optional" may result in a denial of your application. An applicant's SSN is used to retrieve these records and links to the member's official military personnel file and pay record.

Applicable SORNs:

Army (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODComponentArticleView/tabid/7489/Article/6000/a0015-185-sfmr.aspx>)

Navy and Marine Corps (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6510/nm01000-1.aspx>)

Air Force (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/5904/f036-safpc-d.aspx>)

Defense Finance and Accounting Service (<http://privacy.defense.gov/notices/dfas/T5015a.shtml>)

Coast Guard (<http://www.gpo.gov/fdsys/pkg/FR-2011-10-28/html/2011-27881.htm>)

Official Military Personnel Files:

Army (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6131/a0600-8-104-ahrc.aspx>)

Navy (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6405/n01070-3.aspx>)

Marine Corps (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODComponentArticleView/tabid/7489/Article/6775/m01070-6.aspx>)

Air Force (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/5876/f036-af-pc-c.aspx>)

Coast Guard (<http://www.gpo.gov/fdsys/pkg/FR-2011-10-28/html/2011-27881.htm>)

INSTRUCTIONS

Under Title 10 United States Code Section 1552, Active Duty and Reserve Component Service members, Coast Guard, former Service members, their lawful or legal representatives, spouses of former Service members on issues of Survivor Benefit Program (SBP) benefits, and civilian employees with respect to military records other than those related to civilian employment, who feel that they have suffered an injustice as a result of error or injustice in military records may apply to their respective Boards for Correction of Military Records (BCMR) for a correction of their military records. These Boards are the highest level appellate review authority in the military. The information collected is needed to provide the Boards the basic data needed to process and act on the request.

1. All information should be typed or printed. Complete all applicable items. If the item is not applicable, enter "None."
2. If space is insufficient on the front of the form, use the "Remarks" box below for additional information or attach an additional sheet.
3. List all attachments and enclosures in item 9. Do not send original documents. Send clear, legible copies. Send copies of military documents and orders related to your request, if you have them available. Do not assume that they are all in your military record.
4. The applicant must exhaust all administrative remedies, such as corrective procedures and appeals provided in regulations, before applying to the Board of Corrections.
5. ITEM 5. State the specific correction of record desired. If possible, identify exactly what document or information in your record you believe to be erroneous or unjust and indicate what correction you want made to the document or information.
6. ITEM 6. In order to justify correction of a military record, it is necessary for you to show to the satisfaction of the Board by the evidence that you supply, or it must otherwise satisfactorily appear in the record, that the alleged entry or omission in the record was in error or unjust. Evidence, in addition to documents, may include affidavits or signed testimony of witnesses, executed under oath, and a brief of arguments supporting the application. All evidence not already included in your record must be submitted by you. The responsibility of securing evidence rests with you.
7. ITEM 8. U.S. Code, Title 10, Section 1552b, provides that no correction may be made unless a request is made within three years after the discovery of the error or injustice, but that the Board may excuse failure to file within three years after discovery if it finds it to be in the interest of justice.
8. ITEM 10. Personal appearance before the Board by you and your witnesses or representation by counsel is not required to ensure full and impartial consideration of your application. If the Board determines that a personal appearance is warranted and grants approval, appearance and representation are permitted before the Board at no expense to the government.
9. ITEM 11. Various veterans and service organizations furnish counsel without charge. These organizations prefer that arrangements for representation be made through local posts or chapters.
10. ITEM 12. The person whose record correction is being requested must sign the application. If that person is deceased or incompetent to sign, the application may be signed by a spouse, widow, widower, next of kin (son, daughter, mother, father, brother, or sister), or a legal representative that has been given power of attorney. Other persons may be authorized to sign for the applicant. Proof of death, incompetency, or power of attorney must accompany the application. Former spouses may apply in cases of Survivor Benefit Plan (SBP) issues.
11. For detailed information on application and Board procedures, see: Army Regulation 15-185 and www.arba.army.pentagon.mil; Navy - SECNAVINST.5420.193 and www.hq.navy.mil/bcncr/bcncr.htm; Air Force Instruction 36-2603, Air Force Pamphlet 36-2607, and www.afpc.randolph.af.mil/safmrbr; Coast Guard - Code of Federal Regulations, Title 33, Part 52.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW

ARMY	NAVY AND MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency 251 18th Street South, Suite 385 Arlington, VA 22202-3531	Board for Correction of Naval Records 701 S. Courthouse Road, Suite 1001 Arlington, VA 22204-2490	Board for Correction of Air Force Records SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Department of Homeland Security Office of the General Counsel Board for Correction of Military Records 245 Murray Lane, Stop 0485 Washington, DC 20528-0485

17. REMARKS

See attached sheet.

5. I REQUEST THE FOLLOWING ERROR OR INJUSTICE IN THE RECORD BE CORRECTED AS FOLLOWS:

I request that the Department of the Navy posthumously take appropriate action pursuant to Title 10, U.S.C. Section 1370 (c) to place Rear Admiral Husband E. Kimmel on the retired list with the rank of Full Admiral (Four Stars), the highest grade in which he served when on active duty, i.e., I request that, the Board for Correction of Naval Records (BCNR) recommend that, the Secretary of the Navy recommend that, the Secretary of Defense further recommend that, the President of the United States nominate Rear Admiral Kimmel for advancement on the retired list to admiral (O-10).

6. I BELIEVE THE RECORD TO BE IN ERROR OR UNJUST FOR THE FOLLOWING REASONS:

I believe the record to be in error in the following particulars:

1. In 1987 BCNR erroneously closed administratively a previous application to it by Admiral Kimmel's surviving sons (See attachment a: Application to BCNR by Admiral Kimmel's surviving sons, under date of April 7, 1987.) for lack of authority over the requested relief (See attachment b: BCNR Executive Director W. Dean Pfeifer letter to Thomas M. Sussman, Esquire, under date of 9 June 1987.), but the application requested BCNR merely to take appropriate action pursuant to the relief requested.
2. "The Secretary of a military department [acting through boards of civilians of that military department] may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice." (See attachment c: 10 U.S.C.A. § 1552(a){1}). The Department of the Navy's letter, dated 9 June 1987, mischaracterized and misapplied the Attorney General's October 11, 1948 Opinion. The Attorney General actually found that while it was not "within the power of either the Secretary of the Navy or the Board for Correction of Naval Records to restore" the subject officer to his former position, "it would not be unprecedented for the Secretary of the Navy to recommend to the President a nomination so worded as to accomplish the result contemplated by the finding of the Board." (See attachment d: 41 U.S. Op. Atty. Gen. 10, 1948 WL 1663 (U.S.A.G. Oct. 11, 1948). The Attorney General's Opinion—read in conjunction with Title 10 U.S.C.A. §§ 1370 and 1552—confirms that the Board for Correction of Naval Records may adjudicate the Application for Correction of Admiral Kimmel's Records and may fashion a remedy consistent with Presidential nomination and Senate confirmation.
3. As an example of the preceding, the widow of General John D. Lavelle secured a recommendation from the Air Force Board for Correction of Military Records (AFBCMR) that "pertinent military records . . . be corrected to show that the Secretary of the Air Force recommended that the President nominate [General Lavelle] to be retired in the grade of general (O-10) and that action be initiated to obtain Senate confirmation," and that the "recommendation be forwarded to the Secretary of Defense . . . and that all other actions within the authority of the Air Force be taken with a view to securing his nomination, confirmation and appointment to the grade of general." In General John D. Lavelle's case, the recommendations of the AFBCMR were adopted by the Secretary of the Air Force on October 29, 2009. Thereafter, the Secretary of Defense recommended General Lavelle and President Obama nominated General Lavelle for posthumous advancement on the retired list. Notwithstanding the President's nomination, the Senate Armed Services Committee did not vote on the nomination, which—by operation of law—returned the nomination to President Obama.

I believe the record to be unjust in the following particulars:

1. Admiral Husband E. Kimmel was Commander-in-Chief of United States and Pacific Fleets at the time of the Japanese attack on Pearl Harbor, December 7, 1941. Shortly thereafter, on December 18, 1941,

President Roosevelt appointed a Commission to investigate the attack, chaired by U. S. Supreme Court Justice Owen G. Roberts. The Commission, which became known as the Roberts Commission, issued its report on January 23, 1942. This report charged Admiral Kimmel with "dereliction of duty" and was undoubtedly the basis for the Department of the Navy's not placing Admiral Kimmel on the retired list with the rank of Admiral. Subsequent investigations of the Pearl Harbor attack did not sustain the Roberts Commission's charge that Admiral Kimmel was derelict in his duty.

2. In 1948, the Navy Department unjustly omitted the name of Admiral Kimmel from the list of flag officers whose promotion was authorized pursuant to the *Officer Personnel Act of 1947*—that would be everyone else—without any reference to his, or anyone's performance, constituting a belated special disciplinary action of a punitive kind taken without notice to the officer specifically singled out by such omission, Admiral Kimmel.

8 b. IF MORE THAN THREE YEARS SINCE THE ALLEGED ERROR OR INJUSTICE WAS DISCOVERED, STATE WHY THE BOARD SHOULD FIND IT IN THE INTEREST OF JUSTICE TO CONSIDER THE APPLICATION.

1. Applicant is Admiral Kimmel's eldest grandson, and a former naval officer.

2. My grandfather, Admiral Kimmel, died in May 1968. Until the day he died, he fought valiantly to have his name cleared in connection with the Pearl Harbor attack. But for his efforts, there would never have been a Naval Court of Inquiry or a Congressional Investigation of the Pearl Harbor attack. He and his counsel brought these about. It was his goal to bring before the public as much information as he possibly could about the attack. But for their efforts, the circumstances surrounding the Pearl Harbor attack would have gone down in history unknown.

3. The report of Navy Court of Inquiry, October 19, 1944, ordered by the Secretary of the Navy on July 13, 1944 to inquire into all circumstances connected with the Pearl Harbor attack provided that:

"The Court is of the opinion that no offenses have been committed nor serious blame incurred on the part of any person or persons in the naval service.

Recommendation

The Court recommends that no further proceedings be had in this matter."

4. The report of the Joint Committee of the Congress on the investigation of the Pearl Harbor Attack, July 16, 1946, Majority Report, Part V, Conclusions and Recommendations (251) found that:

"The errors made by the Hawaiian commands were errors of judgment and not dereliction of duty."

5. The fact that Court Martial proceedings were never instituted against Admiral Kimmel.

6. The fact that the other principal naval officer involved in the Pearl Harbor attack, then Chief of Naval Operations, Admiral Harold R. Stark, U.S. Navy (Retired – Deceased), was permitted to retain the rank of Admiral throughout his active-duty naval career subsequent to Pearl Harbor, despite the fact that he did not transmit to Admiral Kimmel important information which he had regarding the Japanese situation (see part 39, page 321, Congressional Investigation, Pearl Harbor Attack). When Stark retired, he was placed on the retired list with the rank of Admiral, pursuant to Title 10 U.S.C. §1370(c).

7. Of the nine official investigations of the Pearl Harbor attack, the Roberts Commission was the only one, which charged Admiral Kimmel with "dereliction of duty." Indeed, several of the other investigations made specific findings to the contrary.

8. The injustice and disparity of the treatment accorded the principal naval actors in the Pearl Harbor matter is described above. The plain and simple fact is that recent writings on the subject of the Pearl Harbor attack indicate an increasing awareness that it was patently unfair to place the responsibility for the losses at Pearl Harbor solely on the Hawaiian command. The most recent book on the subject, which defends Admiral Kimmel is *A Matter of Honor*, by Anthony Summers and Robbyn Swan, published in 2016. Other

Pearl Harbor books published in 2016 include: *Countdown to Pearl Harbor*, by Steve Twomey; *Pearl Harbor: From Infamy to Greatness*, by Craig Nelson; *All The Gallant Men*, by Donald Stratton and several others.

9. As is apparent from the preceding, the subject of Pearl Harbor will not die. The public is not satisfied with official explanations to date. The public and responsible historians simply will not accept that the Hawaiian Commanders were solely responsible for the losses at Pearl Harbor. And, indeed, with every new book, new information comes to light and is brought into focus.

10. Consider some of what's newly revealed in Summers and Swan's book—by far the best researched of the lot:

I. How false testimony and false evidence provided to investigators did Admiral Kimmel and General Short (K&S) irreparable prejudice. Providers of false information as officers and decent human beings, knowing full well what they had done, had an obligation to rectify the prejudice to K&S from such deplorable misinformation. They did not do so. (See pp. 91, 276, 277, 398, 458.)

That alone should be enough to compel the relief sought—posthumous advancement of Kimmel on the retired list.

II. How MAGIC was discussed freely with the Roberts Commission in 1941 when an impression could be left that K&S had MAGIC, but, in 1944 when that was no longer possible, the Navy and War Departments declared that MAGIC could not be discussed with the Naval Court of Inquiry (NCI), or the Army Pearl Harbor Board (APHB). (See pp. 276, 311, 318-22, 458, 468.)

III. How Admiral Kimmel came to be the only qualified flag officer in WWII not advanced under the *Officer Personnel Act of 1947*.

Chief of Naval Personnel Vice Admiral James Holloway, Jr. recommended advancement of Kimmel in his April 27, 1954 memorandum (See attachment e: Vice Admiral James Holloway, Jr. memorandum to the Secretary of the Navy, under date of 27 APR 1954.) noting that, in 1948, the Navy Department merely omitted the name of Admiral Kimmel from the list of flag officers whose promotion was authorized—that would be everyone else. This was done without any reference to Kimmel's, or anyone's performance, constituting a belated special disciplinary action of a punitive kind taken without notice to the officer specifically singled out by such omission, Admiral Kimmel. (See pp. 352, 476.)

IV. Additional new information in the book includes:

i. how the Navy Department misled Kimmel regarding the known threat from air-dropped shallow-water torpedoes; (See pp. 82-9, 395-7.)

ii. how the Navy Department misled Kimmel regarding available spy reports; (See pp. 108-10, 112-21, 402-7, Chapters 13-16.)

iii. how the Navy Department misled Kimmel regarding the November 26, 1941 American Note/Ultimatum to Japan; (See p. 182 regarding Marshall and Stark's November 5, 1941 Joint Memo to FDR recommending no ultimatum be sent to Japan.) [Tom Kimmel note: A copy of the Joint Memo was sent to Kimmel but no follow-up advising him that FDR ignored their recommendation was sent. (PHA, Part 16, pp. 2220-1)]

iv. how Admiral Kimmel was manipulated into retirement. (See pp. 283-7, 460-1.)

v. how perjury before the NCI was even worse than perjury before the APHB. (See pp. 91, 318-22, 398, 468.)

11. The Board should consider it in the interest of justice to consider this application simply because it has

been only after seventy-five years that the inherent injustice in the treatment of the principal naval actors in the Pearl Harbor matter has come to light so clearly. Only last December, on the seventy-fifth Anniversary of Pearl Harbor, the Henderson, Kentucky War Memorial Association dedicated a statue to Admiral Kimmel, which speaks directly to the injustice suffered by him.

12. Admiral Arleigh Burke wrote in 1991 that, "This matter is important not because of the importance to . . . the Kimmel family but because of the importance to the Navy as an institution." (See attachment f: Admiral Arleigh Burke letter to Secretary of Defense Dick Cheney, under date of July 24, 1991.)

13. NOTE: Additional evidence will be supplied as appropriate.

9. IN SUPPORT OF THIS APPLICATION, I SUBMIT AS EVIDENCE THE FOLLOWING ATTACHED DOCUMENTS:

- a. Application to BCNR by Admiral Kimmel's surviving sons, under date of April 7, 1987;
- b. W. Dean Pfeifer letter to Thomas M. Sussman, Esquire, under date of 9 June 1987;
- c. 10 U.S.C.A. § 1552(a){1};
- d. U.S. Op. Atty. Gen. 10, 1948 WL 1663 (U.S.A.G. Oct. 11, 1948);
- e. Vice Admiral James Holloway, Jr. memorandum to the Secretary of the Navy, under date of 27 APR 1954; and
- f. Admiral Arleigh Burke letter to Secretary of Defense Dick Cheney, under date of July 24, 1991.