



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

MEH:ddj
Docket No: 118-01
6 November 2001

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased spouse's 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 6 November 2001. 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 spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1760 MMSR-6J of 24 October 2001, 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
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1760
MMSR-6J
24 Oct 01

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

Subj: BCNR APPLICATION IN THE CASE OF THE LATE MAJOR [REDACTED]

Ref: (a) MMER Route Sheet of 4Oct01, Docket No. 0118-01

1. The reference requests an advisory opinion on Mrs. [REDACTED] petition to correct her late husband's records to show that he was enrolled in the Survivor Benefit Plan with spouse coverage when he died on 17 January 2000.
2. Major [REDACTED] transferred to the Retired List on 1 February 1995. As evidenced by the DD Form 2656 enclosed with Mrs. [REDACTED] petition, Major [REDACTED] declined SBP coverage on 10 January 1995. Mrs. [REDACTED]'s notarized signature of concurrence is shown on the form.
3. Mrs. [REDACTED] states in the petition that the form (2656) was "never explained" prior to her signing the document. However, her witnessed signature on the form validates Major [REDACTED]'s election of no coverage. Unfortunately, Major [REDACTED] clearly elected no SBP coverage with the required spousal concurrence. He, therefore, was not enrolled in the SBP at time of his death.
4. We must regretfully recommend that Mrs. [REDACTED] petition not be granted favorable consideration.

[REDACTED]
[REDACTED] R.
Head, Separation and
Retirement Branch
By direction of the Commandant
of the Marine Corps