



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

MEH:ddj  
Docket No: 978-01  
27 March 2001

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased former 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 27 March 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 former spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 6 March 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

NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

6 Mar 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

Ref: (a) BCNR memo of 9 Feb 01

1. Per reference (a), recommend the BCNR not correct Petty Officer [REDACTED] record to reflect that he voluntarily changed his election under the Survivor Benefit Plan (SBP) from spouse to former spouse coverage category within one year of his divorce.
2. The recommendation is based on the following:
  - a. Petty Officer [REDACTED] transferred to the Fleet Reserve on 30 June 1976. He enrolled in SBP spouse and child category coverage on 30 June 1976.
  - b. Petty Officer [REDACTED] were divorced on 17 April 1990. Petty Officer Kane died 14 August 2000.
  - c. Title 10, U.S. Code, Section 1448(b)(3), requires that SBP participants with spouse coverage who become divorced and desire to maintain their former spouses as their beneficiaries must specifically elect such coverage within one year after the date of divorce. If nothing is done after one year, the Defense Finance and Accounting Service-Cleveland (DFAS-CL) will automatically terminate coverage upon receiving information regarding their divorce.
3. Ms [REDACTED] has not provided sufficient evidence (i.e. provisions in the divorce decree) that PO1 [REDACTED] was specifically required to provide SBP coverage for her as his former spouse.

[REDACTED]  
Head, Navy Retired Activities  
Branch (PERS-622)