



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

MEH:ddj
Docket No: 7533-02
19 November 2002

[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 19 November 2002. 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 NPC memorandum of 21 October 2002, 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

21 Oct 02

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION ICO CPO JOHN T. ROBERTS,
U [REDACTED] 205- [REDACTED] 07-532- [REDACTED]

Ref: (a) BCNR Pay memo of 20 Sep 02

1. Per reference (a), recommend the BCNR not correct CPO Roberts' record to reflect that he enrolled in the Survivor Benefit Plan (SBP).

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Fleet Reserve on 29 August 1966. He did not enroll in the Retired Serviceman's Family Protection Plan (RSFPP) at that time. He died 3 February 1985.

b. The RSFPP was a voluntary, contributory program, which required participants to contribute a small portion of their retired pay. This program was replaced by the SBP.

c. [REDACTED] had two opportunities to enroll in the SBP after his retirement. The first was during the widely publicized initial Open Enrollment period of 21 September 1972 to 20 September 1973. Additionally, he had one other opportunity during the 1 October 1981 to 30 September 1982 open season. Unfortunately, [REDACTED] did not take advantage of these opportunities. [REDACTED] received a Retiree Account Statement (RAS) each time there was a change in his retired pay and at least one annually which identified him as a non-participant in the SBP, yet he took no action to enroll his spouse. Additionally, "Shift Colors" (the Navy quarterly newsletter) which was provided to [REDACTED] routinely contained information regarding the SBP open season enrollment periods.

3. There are no other provisions under federal law that permit payment of an SBP annuity to the spouse of deceased retiree who is not enrolled in this plan.

[REDACTED]

Program Manager
Survivor Benefit Plan
Retired Activities and GI Bill
Programs Branch (PERS-664)