



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

MEH:ddj
Docket No: 9563-02
15 April 2003



Dear [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 15 April 2003. 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 17 March 2003, 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

17 Mar 03

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

Ref: (a) BCNR Pay memo of 13 Feb 03
(b) DoD Financial Management Regulation (Volume 7B)

1. Per reference (a), recommend the BCNR not correct [REDACTED] record to reflect that he enrolled in the Survivor Benefit Plan (SBP) within one year of his marriage.

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Fleet Reserve on 1 November 1982. He elected the SBP children only coverage at that time, having no eligible spouse. He died on 17 July 1995.

b. [REDACTED] and [REDACTED] were married on 1 December 1982.

c. Per reference (b), [REDACTED] had one year from his date of marriage to enroll his new spouse. He did not take advantage of this opportunity. He also could have enrolled her during the 1 April 1992 to 31 March 1993 open season. [REDACTED] did not seek enrollment at that time either. [REDACTED] also received a Retiree Account Statement (RAS) each time there was a change in his retired pay and at least one annually. This statement identified him as a participant in the SBP Children only coverage, and 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, as well as the open season enrollment period, however, he did not enroll his spouse.

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

[REDACTED]

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