



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

BAN
Docket No. 02945-08
22 September 2008

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 September 2008. 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 naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Deputy Director Casualty Assistance Division (N135C) of 26 Aug 08, 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. 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 also 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

26 Aug 08

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-31C)

Subj: COMMENTS AND RECOMMENDATIONS ICO [REDACTED]
[REDACTED] DOCKET NO. 02945-08

Ref: (a) BCNR memo of 7 Aug 08

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

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Retired Reserve List with pay on 15 September 2002. He was not married and declined participation in SBP at that time.

b. [REDACTED] and [REDACTED] were married on 10 December 2005.

c. Title 10, U.S. Code, Section 1448(a)(5), states in part, a person who is not married when he becomes eligible to participate in the Plan but who later marries or acquires a dependent child may elect to participate in the Plan, but his election must be written, signed by him, and received by the Secretary concerned within one year after he marries or acquires that dependent child.

3. [REDACTED] could have enrolled his spouse in the SBP during the 1 October 2005 to 30 September 2006 open enrollment period. Information regarding the SBP has been available to [REDACTED] from "Shift Colors", the quarterly newsletter provided to all Navy retirees who maintain current correspondence address information with the Defense Finance and Accounting Service-Cleveland Center (DFAS-CL). Though we make every effort to provide favorable recommendations for the member and his family, we also have a responsibility as stewards of the

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public trust. Had [REDACTED] contacted this Headquarters or DFAS-CL regarding SBP coverage for his spouse we would have assisted him with his SBP election.



BASIL COLEMAN
Deputy Director
Casualty Assistance Section
(N135C)
Acting