



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

BAN
Docket No. 03595-08
14 July 2008

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your husband's 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 14 July 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 husband's 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 17 Jun 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. 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 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

17 Jun 08

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

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

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED], DOCKET NO. 03595-08

Ref: (a) BCNR memo of 1 May 08
(b) FY05 National Defense Authorization Act (NDAA)

1. In response to reference (a), recommend BCNR not correct [REDACTED] record to reflect that he lived the required two years necessary to qualify for Survivor Benefit Plan (SBP) participation during the 2005-2006 open season enrollment period.

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Fleet Reserve on 30 June 1980 and he declined SBP.

b. During the 1 October 2005 to 30 September 2006 open season he enrolled his spouse with an effective date of 1 March 2006. Since this was his initial SBP election, he had to live for two years after electing coverage, unfortunately [REDACTED] died 30 May 2007.

3. [REDACTED] did not meet the survivability requirements established by reference (b), therefore his widow is not entitled to an SBP annuity.


B. R. BEHLKE
Deputy Director
Casualty Assistance Division
(N135C)