



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

DJC
Docket No. 666-09
14 July 2009

Dear [REDACTED]

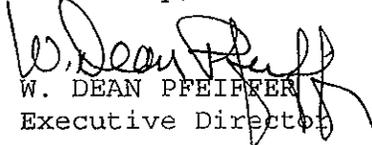
This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 July 2009. 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 NPC Memo dtd 13 Mar 09, 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

13 Mar 09

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. 00666-09

Ref: (a) BCNR memo of 19 Feb 09

1. Per reference (a), recommend BCNR not correct
[REDACTED] record to reflect that he declined
participation in the Survivor Benefit Plan (SBP).

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Fleet Reserve
on 31 January 2005. He was automatically enrolled in the SBP as
a result of the Defense Finance and Accounting Service-Cleveland
Center (DFAS-CL) not receiving a valid election.

b. Public Law 105-85 enacted on 18 November 1997,
authorized SBP participants to voluntarily discontinue SBP
participation during the one-year period beginning on the second
anniversary of the date of commencement of retired pay.
[REDACTED] could have terminated his participation in
the SBP, with his spouse's written concurrence, during the
aforementioned one-year period however he did not do so.

3. Information regarding the SBP has been available to
[REDACTED] from "Shift Colors", the Navy's quarterly
retiree newsletter which is provided to all Navy retirees who
maintain current correspondence address information with the
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 public trust. [REDACTED]
[REDACTED] spouse has been protected since his date of retirement
under the SBP and had he died during that period, his spouse
would have received an SBP annuity.


BASIL COLEMAN
Deputy Director
Casualty Assistance Branch
(N135C)
Acting

MAR 26 2009