



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

BAN
Docket No. 11104-09
23 February 2010

[REDACTED]

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This is in reference to your application for correction to your deceased spouse'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 22 February 2010. 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.

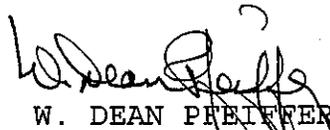
The Reserve Component Survivor Benefit Plan (RCSBP) is a program that allows a reserve retiree who has not yet become entitled to retired pay by reaching age 60, to leave a percentage of the future retired pay as a monthly survivor annuity to surviving beneficiaries. Reserve retirees become eligible to participate in the RCSBP by completing all of the requirements to be qualified for retired pay at age 60. To preserve the actuarial soundness of the plan, Reserve retirees may only enroll during certain periods that are specified by law.

The Board noted that your husband had been provided multiple opportunities to enroll in the RCSBP. His first opportunity to enroll arose in May 1990 when he was furnished with his "Notice of Eligibility to Receive Retired Pay at age 60" (NOE). He was not married at the time and there is no evidence that he elected coverage. His second opportunity arose in September 1994 when he married you. Retirees who are unmarried at the time that they are furnished their NOE who later marry, may elect "spouse"

coverage within one year of acquiring the spouse. Regrettably, there is no evidence that he elected RCSBP coverage within one year of his marriage to you. Finally, your husband had two subsequent opportunities to enroll in the RCSBP during widely publicized "open enrollment" seasons. Open enrollment seasons were held in March 1999 - February 2000 and October 2005 - September 2006. Regrettably, there is no evidence that your husband elected coverage during those opportunities either. Under these circumstances, the Board found insufficient evidence of an error or injustice that would warrant relief. 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