



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

DJC
Docket No. 4012-10
14 Dec 10

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased 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 13 December 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 naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by NPC Memo 5420 PERS-00J1/161 dtd 24 Nov 10, a copy of which is attached.

The Board members also considered your request for a personal appearance, however they found that the issues in the case were adequately documented and that a personal appearance with or without counsel would not materially add to the Board's understanding of the issues involved. Thus, your request for a personal appearance has been denied.

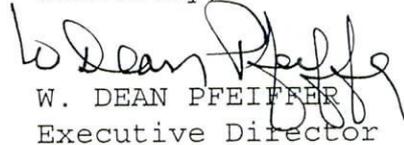
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Review of the records shows that you and [REDACTED] married in 1985. He transferred to the Fleet Reserve (retired) in 1998. In conjunction with his retirement, he declined participation in the Survivor Benefit Plan (SBP). The attached form evidences your agreement of his decision to

decline SBP participation. Your signature in block 30 was witnessed by [REDACTED], USS Nimitz and is presumed to be authentic. Because he declined SBP participation, no SBP costs (i.e. monthly premiums) were deducted from your husband's retired pay to underwrite SBP coverage. Your husband enjoyed the benefit of his full retired pay until his death in 2010. Additionally, between your husband's retirement and his death, the SBP offered two widely publicized "open enrollment" periods during which you/your husband could have enrolled in the SBP. "Open enrollment" periods were held during March 1999-February 2000 and October 2005-September 2006. There is no evidence of enrollment during either of the two open enrollment seasons.

Because your husband declined SBP, no premiums were paid, no open season enrollment elections were made and you presumably concurred with your husband's decision to decline SBP, in the Board's view, no relief is warranted. 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