



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

WJH
Docket: 8353-10
14 September 2011

[REDACTED]

This is in reference to your application for correction of 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 12 September 2011. 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 former husband's naval record and applicable statutes, regulations and policies. In addition, the Board considered the 24 June 2011 advisory opinion furnished by the Survivor Benefit Program Manager Casualty Assistance Section which is attached and was previously furnished to you.

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 for the reasons set forth below.

According to your application, you recall a discussion about SBP at the time of [REDACTED] retirement but do not recall the specifics. You learned that he was not participating in the SBP in, approximately, 1991. And, due to his declining health, you began to manage his financial affairs in approximately 2001.

Records show that you married your spouse [REDACTED] (now deceased) in 1958. In 1982, [REDACTED] retired from active duty. Prior to his retirement, he declined participation in the Survivor Benefit Plan (SBP) by filing a NAVCOMPT 2272. You also signed the NAVCOMPT 2272 under part IV "Survivor Benefit Plan Acknowledgement".

As a result of his election to decline participation [REDACTED] was not enrolled in the SBP. He paid no premiums or "costs" associated with participation. He enjoyed the benefit of his full retired pay after his retirement.

SBP "open seasons" were held in 1991, 1999 and 2005. There is no evidence that [REDACTED] sought to enroll in SBP during the open seasons. Also, there is no evidence that you sought to enroll (on his behalf) during the open season held after you began to manage [REDACTED] financial affairs.

The Board found that, under these circumstances, no change to his naval record is warranted. The Board was satisfied that the NAVCOMP 2272 that you signed in 1982 adequately served to put you on notice that [REDACTED] had declined SBP. By your own statement, you knew that he was not participating in the SBP as early as 1991. Neither you nor [REDACTED] ever sought to enroll during any of the available "open seasons." And no SBP "premiums" were ever paid. 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