



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD SUITE 1001
ARLINGTON VA 22204-2490

BAN
Docket No. NR02156-14
26 November 2014

[REDACTED]

This is in reference to your application for correction of 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 25 November 2014. 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, his naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion (A/O) furnished by the Office of Legal Counsel, Navy Personnel Command, (PERS-00J) memo of 3 Sept 2014, a copy of which was provided to you on 26 Sept 2014, and is being provided to you now. Additionally, the Board considered your response to the A/O dated 20 November 2014.

However 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 making this determination, the Board concurred with the comments contained in the A/O. Therefore, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Finally, the Board did note however, that since you are receiving Dependency Indemnity Compensation (DIC) in lieu of a Survivor Benefit Plan (SBP) annuity, if the law ever changes and allows dependents to be in receipt of concurrent payment of DIC and SBP, then you may reapply to this Board for reconsideration.

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

evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in this case. 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,



ROBERT J. O'NEILL
Executive Director

Enclosure