



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

MEH:mh
Docket No: 1852-99
2 June 1999

PO2 [REDACTED] USN RETIRED
[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 June 1999. 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 BUPERS memorandum of 21 April 1999, 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



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

21 Apr 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS (BCNR)

Via: Assistant for BCNR Matters (NPC-00XCB)

Subj: COMMENTS AND RECOMMENDATION ICO PO2 [REDACTED]
USN(RET.), [REDACTED], DOCKET NO. 01852-99

Ref: (a) BCNR memo Pay of 31 Mar 99
(b) DoD Financial Management Regulation (Vol 7, Part B)
(c) Public Law 105-85, Section 641 of 18 Nov 97

Encl: (1) DD Form 2656-2

1. Per reference (a), recommend the BCNR not correct PO2
Minor's record to reflect that he is disenrolled from the
Survivor Benefit Plan (SBP).

2. This recommendation is based on the following:

a. PO2 [REDACTED] transferred to the Retired List on 31 August
1997. His effective SBP enrollment date was 1 September 1997.
He was automatically enrolled.

b. Per reference (b), the decision to participate or decline
SBP is irrevocable. Discontinuation in SBP may take place when
there is no eligible beneficiary due to death or divorce.
Additionally, a member who retires on or after 21 September 1972
has automatic participation at the maximum level, unless he/she
elects otherwise before retirement.

c. Public Law 96-402 of 9 October 1980 permits withdrawal
from SBP for retirees rated totally disabled by the Department of
Veterans Affairs (VA) for 5 continuous years since retirement or
10 continuous years beginning after retirement.

d. PO2 [REDACTED] has not provided evidence to indicate he
qualifies for termination of SBP by any of the above criteria.

3. Per reference (c), PO2 [REDACTED] may terminate participation in
SBP between his 25th and 36th month of participation in the plan
(1 October 1999). Enclosure (1) is provided for that purpose.

[REDACTED]
Assistant Head, Retired
Activities Branch
(Pers-622)