



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

MEH:ddj  
Docket No: 3968-01  
14 August 2001

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased spouse's 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 14 August 2001. 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. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1760 MMSR-6J of 17 July 2001, 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  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:  
1760  
MMSR-6J  
17 Jul 01

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF THE LATE SERGEANT [REDACTED]

Ref: (a) MMER Route Sheet of 21Jun01, Docket No. 3968-01

1. The reference requests an advisory opinion on Mrs. [REDACTED]'s petition to correct the late Sergeant [REDACTED]'s records to show that he elected spouse coverage under the Survivor Benefit Plan (SBP) prior to his death on 9 March 2000.
2. We cannot find any evidence to indicate that Sergeant [REDACTED] elected SBP coverage after his retirement on 31 January 1962. He had the opportunity to elect coverage under the SBP during an the initial Open Enrollment Period which lasted from 21 September 1972 through 20 March 1974 and subsequent "Open Seasons"; from 1 October 1981 through 30 September 1982, and from 1 April 1992 through 31 March 1993. These "Open Seasons" were highly publicized through periodicals of both the Armed Forces and various associations oriented toward the military community.
3. Unfortunately, there is no evidence to indicate that Sergeant [REDACTED] chose to participate in the SBP during either of the opportunities offered during his retirement. Additionally, there was no requirement under Public Law 92-425 that spouses of those members retired before 1 March 1986, be counselled or consent to the member's decision not to participate in SBP.
4. I deeply regret that [REDACTED] is not entitled to an SBP annuity from the Marine Corps. We, therefore, recommend that her petition not be granted favorable consideration.

[REDACTED]  
Head, Separation and  
Retirement Branch  
By direction of the Commandant  
of the Marine Corps