



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

BAN
Docket No. 03815-10
23 August 2010

[REDACTED]

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This is in reference to your application for correction to your deceased husband's naval record pursuant to the provisions of 10 USC 1552.

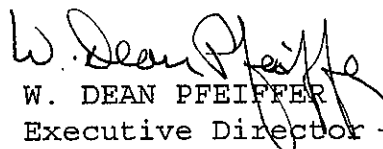
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 August 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered an advisory opinion by the Deputy Director Casualty Assistance Branch.

The Board noted that your husband received his Notification of Eligibility in December 1994, and was transferred to the Retired List without pay, on 1 January 1997, which entitled him to participate in the Reserve Component Survivor Benefit Plan (RCSBP). However, he failed to make an election within 90 days and, therefore, was not enrolled in RCSBP coverage. This decision was irrevocable. Your husband, however, had the opportunity to elect Survivor Benefit Plan (SBP) coverage before his 60th birthday, which he did so on 21 August 2009. Although, under this option, in order for your husband's beneficiary to receive an annuity, he had to reach the age of 60 and, unfortunately, he passed away in January 2010, at the age of 59. Additionally, during the gray period between the time he retired without pay to the point he reached age 60, your husband had the opportunity to elect RCSBP coverage during the widely publicized 1 March 1999 to 29 February 2000 and the 1 October 2005 to 30 September 2006, SBP open-season enrollment periods. However, he

failed to do so. Therefore, under these circumstances, the Board found insufficient evidence of an error or injustice that would warrant relief. 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