



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

BAN  
Docket No. 04500-12  
9 October 2012

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of 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 24 September 2012. 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 Survivor Benefit Plan (SBP) Program Manager Casualty Assistance (OPNAV N135C) memo of 24 Jul 2012, a copy of which is provided to you, enclosure (1).

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 substantially concurred with the comments contained in the A/O.

The Reserve Component Survivor Benefit Plan (RCSBP) is a program that allows a reservist with more than 20 qualifying years who has not yet become entitled to retired pay by reaching age 60, to leave a percentage of the future retired pay as a monthly survivor annuity to surviving beneficiaries. Reserve retirees become eligible to participate in the RCSBP by completing all of the requirements to be qualified for retired pay at age 60. To preserve the actuarial soundness of the plan, Reserve retirees may only enroll during certain periods that are specified by law.

Records show that in April 1999, your husband was notified by the attached letter (enclosure 2) that he had completed all of

the requirements to receive retired pay at age 60 and he was afforded an opportunity to enroll in the RCSBP. To enroll, he was required to complete an election certificate and submit it to the Navy Reserve Personnel Center within 90 days of receiving enclosure (2). Regrettably, there is no evidence that your husband elected coverage. Additional records show that on 5 May 1999, a letter was mailed to you to acquaint you with the different options that were available to your husband. Please see enclosure (3) which clearly stated that your husband had "90 days from receipt of this package to enroll in the Plan." Moreover, your husband had a second opportunity to enroll in the RCSBP during a widely publicized "open enrollment" season that occurred between March 1999 and February 2000.


Regrettably, after a thorough review of the records, there is no evidence that he elected RCSBP coverage during his first opportunity (between approximately April 1999 and July 1999) or his second opportunity (between March 1999 and February 2000). The Board carefully considered your contention that your husband submitted an election form electing option C in May 1999. However, regrettably, careful and complete review of the RCSBP election records on file with the Navy Reserve Personnel Center reveals no record of any such form having been received.

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

Enclosures