



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

MEH:ecb
Docket No: 881-01
17 July 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 17 July 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 NPC memorandum dated 6 June 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
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

6 Jun 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

Ref: (a) BCNR memo of 3 May 01

Encl: (1) Statement of Service case of PO1 Peter B. King

1. Per reference (a), recommend BCNR not correct PO1 [REDACTED] record to reflect that he was eligible to participate in the Survivor Benefit Plan (SBP) effective 12 March 1980.

2. The recommendation is based on the following:

[REDACTED] died while on active duty on 12 March 1980.

b. Title 10, U.S. Code, Section 1448 (d), states that the Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a member who dies on active duty after:

(a) becoming eligible to receive retired pay;

(b) qualifying for retired pay except that he has not applied for or been granted that pay; or

(c) completing 20 years of active service but before he is eligible to retire as a commissioned officer because he has not completed 10 years of active commissioned service.

3. Enclosure (1) indicates that PO1 [REDACTED] did not complete the required service, 20 years, to become eligible for retired pay. In view of the above, Mrs. [REDACTED] is not eligible for an SBP annuity.

[REDACTED]

Head, Retired Admin Section
Casualty Assistance and
Retired Activities
Division (PERS-62)