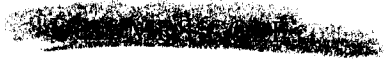




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

MEH:ddj
Docket No: 5581-01
25 September 2001



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 25 September 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 BUPERS memorandum of 22 August 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

22 Aug 01

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

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: COMMENTS AND RECOMMENDATION ICO CP [REDACTED]
[REDACTED]

Ref: (a) BCNR Pay memo of 30 Jul 01
(b) DoD Financial Management Regulation (Volume 7B)

1. Per reference (a), recommend the BCNR not correct Chief Petty Officer [REDACTED] record to reflect that he enrolled in the Survivor Benefit Plan (SBP) effective 7 September 1986, one year after his date of marriage.

2. The recommendation is based on the following:

a. Chief Petty Officer [REDACTED] transferred to the Fleet Reserve on 1 May 1964.

b. Chief Petty Officer [REDACTED] and [REDACTED] were married on 7 September 1985. He died 4 February 1996.

c. Per reference (b), if a member has no eligible beneficiaries and later marries or remarries, he or she may within one year of their date of marriage/remarriage enroll in SBP. The Defense Finance and Accounting Service-Cleveland (DFAS-CL) has no record that Chief Petty Officer [REDACTED] attempted to enroll his spouse within one year of their marriage. The information provided in this application, makes no mention nor provides any proof that Chief Petty Officer [REDACTED] advised the DFAS-CL of his marriage by forwarding a marriage license within one year of his marriage. Chief Petty Officer [REDACTED] also had an opportunity to enroll his spouse in SBP during the 1992-1993 open season, and he did not do so.

3. "Shift Colors" (the retirees' quarterly newsletter) regularly provides information on various aspects of SBP. This newsletter, as well as periodicals from various Navy fraternal organizations, provides SBP information to the retired community

Subj: COMMENTS AND RECOMMENDATION ICO CPO [REDACTED]

on a routine basis. Additionally, the Navy Retired Activities Branch, PERS-622 and local Retired Activities Offices (RAOs) have been available to provide specific information to Chief Petty Officer [REDACTED] since his retirement. Since Chief Petty Officer [REDACTED] died on 4 February 1996, after the cutoff date of 21 March 1974 for active duty personnel, Mrs. [REDACTED] does not meet the eligibility criteria for the Annuities for Certain Military Surviving Spouses (ACMSS) also called the "Forgotten Widows Program."

[REDACTED]

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