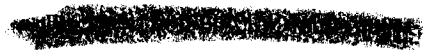




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

MEH:ddj
Docket No: 5749-01
27 November 2001



This is in reference to your application for correction of your deceased former 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 27 November 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 former 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 29 October 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

29 Oct 01

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

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

Ref: (a) MMER Route Sheet of 4Oct01, Docket No. 5749-01

1. The reference requests an advisory opinion on [REDACTED] petition to correct the records of her late former husband, Master Sergeant [REDACTED] to show her entitlement to a monthly annuity as the result of his enrollment in the Survivor Benefit Plan (SBP) prior to his death on 30 May 1997.

2. Mrs. [REDACTED] petition and Master Sergeant [REDACTED]'s record shows that subsequent to his transfer to the Fleet Marine Corps Reserve on 30 June 1979, they were divorced on 15 June 1981. [REDACTED] was therefore Master Sergeant [REDACTED] former spouse, not his widow, at the time of his death. He was not remarried when he died.

3. Master Sergeant [REDACTED] was not enrolled in the SBP prior to or after his divorce from Mrs. [REDACTED]. Unfortunately, Mrs. [REDACTED] therefore, is not eligible to receive an SBP annuity. We must regretfully recommend that her petition not be granted favorable consideration.

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