



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

MEH:ddj
Docket No: 7345-01
20 November 2001



This is in reference to your application for correction of your 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 20 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 naval record and applicable statutes, regulations and policies.

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. A member who submits no Survivor Benefit Plan (SBP) election form or an improperly completed election form is automatically enrolled in SBP at the full base amount. Although you declined SBP there is no record of your spouse having provided the required written concurrence. Therefore, you were automatically enrolled and she was covered until your divorce in January 1992. Had you died during that time she would have received an annuity. The Barring Act, commonly called the statute of limitations, precludes any claims against the federal government that are not received within six years of the date such claims accrued. You were divorced in January 1992 but continued to pay SBP premiums until August 2001. Therefore, under the provisions of the Barring Act you were reimbursed for the premiums you paid during the six year period from July 1995 to August 2001. Since the law expressly bars reimbursement of the premiums you paid prior to July 1995 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.

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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