



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

MEH:mh  
Docket No: 5632-02  
17 September 2002

[REDACTED]

Dear [REDACTED]

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 17 September 2002. 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. In addition, the Board considered the advisory opinion furnished by NPC memorandum of 16 August 2002, 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

16 Aug 02

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

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

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

Ref: (a) BCNR memo of 1 Jul 02  
(b) Public Law 96-402 of 9 Oct 80

Encl: (1) [REDACTED]'s DD Form 2656, Data for Payment of  
Retired Personnel dtd 27 Sep 00  
(2) [REDACTED] DD Form 2656-2, Survivor Benefit Plan  
(SBP) Termination Request dtd 30 May 02

1. Per reference (a), recommend the BCNR not correct  
[REDACTED] record to reflect that he terminated  
participation in the Survivor Benefit Plan (SBP) on  
30 May 2002.

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Fleet Reserve  
on 30 September 2000. He enrolled in the spouse only category  
of coverage using his full gross retired pay as his base amount  
at that time.

b. [REDACTED] retired pay account indicates  
that he is a full Department of Veterans Affairs (VA) waiver  
effective 1 July 2001. He provided no written documentation  
from the VA verifying that they have rated him 100 percent  
disabled.

c. Per reference (b), a member who elected to participate  
in the SBP who was suffering from a service-connected disability  
rated by the VA as totally disabling and has suffered from such  
disability while so rated for a continuous period of 10 or more  
years (or, if so rated for a lesser period, has suffered from  
such disability while so rated for a continuous period of not  
less than 5 years from the date of such person's last discharge

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

or release from active duty) may discontinue participation by submitting to the Secretary concerned, a request to discontinue participation in the Plan. Additionally, [REDACTED] will be eligible to voluntarily terminate his participation in the SBP during his 25<sup>th</sup> through 36<sup>th</sup> month of receiving retired pay. Participation cannot be discontinued nor terminated without the written consent of his spouse.

3. Based on the above criteria, [REDACTED] is not eligible to terminate his participation in the SBP at this time.

[REDACTED]

Program Manager  
Survivor Benefit Plan  
Retired Activities and  
GI Bill Programs Branch  
(PERS-664)