



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

MEH:ddj
Docket No: 7274-01
19 March 2002

[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.

[REDACTED]

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 March 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 CMC memorandum 1760 MMSR-6J of 7 December 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. You have been receiving Retiree Account Statements since 1994, which would show that there were no deductions from your retired pay for the Survivor Benefit Plan (SBP). You waited seven years to request enrollment, based on the allegation that your spouse never provided the required written concurrence with a declination. You have provided no documentation that would support your request. 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.

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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

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1760
MMSR-6J
7 Dec 01

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

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

Ref: (a) MMER Route Sheet of 26Nov01, Docket No. 7274-01

1. The reference requests an advisory opinion on Gunnery [REDACTED] petition to correct his record with regard to enrollment in the Survivor Benefit Plan (SBP).
2. [REDACTED] transferred to the Fleet Marine Corps Reserve on 31 January 1994. He is not enrolled in the SBP. [REDACTED] has contacted the Defense Finance and Accounting Service in Cleveland, Ohio requesting enrollment in the SBP. He was told that to enroll at this time would require that he pay back premiums from his retirement date in 1994.
3. It appears that, by his petition, [REDACTED] requests that he be enrolled in the SBP without paying the back premiums because his enrollment form was not properly completed prior to his retirement. Unfortunately, there is not enough explanatory or supportive evidence with the petition to warrant favorable consideration.
4. We defer further opinion to the Defense Finance and Accounting Service in Cleveland, Ohio.

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