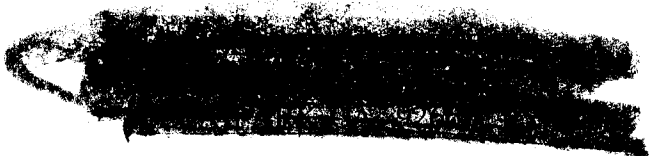




DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

MEH:ddj  
Docket No: 7993-02  
13 November 2002



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 13 November 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 spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1741 MMSR 6 of 22 October 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. A Survivor Benefit Plan (SBP) election must be made within one year of the event. Therefore, Colonel Dougherty had one year after your 24 November 1993 marriage to enroll in SBP for spouse coverage. The newsletter for retired marines, 'Semper Fidelis', routinely carries articles about SBP, including phone numbers to call for information. The Defense Finance and Accounting Service will also provide information. If your husband desired to change his coverage he could have obtained the necessary information from either of these sources. There is no indication that he attempted to do so. In this connection, the Board did not concur with the recommendation 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.

Docket No. 7993-02

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:  
1741  
MMSR-6  
22 Oct 02

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

Subj: BCNR APPLICATION IN THE CASE OF THE LATE COLONEL [REDACTED]  
[REDACTED] 7 USMCR, SUBMITTED BY HIS WIDOW,  
[REDACTED]

Ref: (a) MMER Route Sheet of 10Oct02, Docket No. 7993-02

1. Reference (a) requests an advisory opinion on Mrs. [REDACTED] petition to correct [REDACTED] record to show that he was enrolled in the Survivor Benefit Plan (SBP) with spouse coverage when he died on 26 December 2001.

[REDACTED] divorced in March 1978 after 17 years of marriage. In September 1979 Colonel [REDACTED] became eligible for transfer to the Retired Reserve and elected child only coverage under the Reserve Component Survivor Benefit Plan (RCSBP) with a reduced base amount of \$500. His youngest child was then 9. Colonel [REDACTED] reached the age of 60 and began receiving retired pay on 18 April 1984. His RCSBP child coverage became SBP child coverage on that date.

3. On 24 November 1993, Colonel and Mrs. [REDACTED] remarried each other. The youngest child was then 23 and not an eligible beneficiary. It was the Colonel's responsibility to notify the Defense Finance and Accounting Service that he had no eligible SBP beneficiary so that his child coverage could be suspended.

4. Colonel [REDACTED] may not have been aware that an election of spouse coverage was not automatic and required a voluntary request on his part. We, therefore, recommend that the petition be granted favorable consideration and that Colonel [REDACTED] record be corrected to show enrollment in the SBP with reduced spouse coverage effective on 24 November 1994.



Acting Head, Separation and  
Retirement Branch  
By direction of the Commandant  
of the Marine Corps