



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

MEH:ddj
Docket No: 3140-03
24 June 2003

[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 24 June 2003. 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 28 May 2003, 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

28 May 03

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

Ref: (a) BCNR memo of 1 May 03

Encl: (1) DD Form 2656 dtd 22 Jun 01
(2) DD Form 2656-2, Survivor Benefit Plan (SBP)
Termination Request

1. Per reference (a), recommend BCNR not correct [REDACTED] record to reflect that she did not participate in the Survivor Benefit Plan (SBP).
2. The recommendation is based on the following:
 - a. [REDACTED] transferred to the Fleet Reserve on 31 January 2002. She elected spouse and child coverage with spousal per enclosure (1).
 - b. Public Law 105-85 enacted 18 November 1997, authorized SBP participants to voluntarily discontinue SBP participation during the one-year period beginning on the second anniversary of the date of commencement of receiving retired pay. The date of commencement is defined as the date that the retiree becomes entitled to retired pay. [REDACTED] may elect to terminate SBP participation effective 1 February 2004, with her spouse's written concurrence, utilizing enclosure (2), and forwarding it to the Defense Finance and Accounting Service, U.S. Military Retirement Pay, Post Office Box 7130, London, KY 40742-7130.
3. Information regarding the SBP has been available to [REDACTED] from "Shift Colors" the quarterly newsletter provided to all Navy retirees who maintain current address information with the DFAS-CL. Though we make every effort to provide favorable recommendations for the member and her family, we also have a responsibility as stewards of the public trust.

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

4. With that thought in mind, it should be noted that [REDACTED] spouse and children have been protected under the SBP for the past 16 months. This means that if she had died during this period, her spouse would have received an SBP annuity. Additionally, [REDACTED] received a "Retiree Account Statement" (RAS) at least once annually, as well as whenever there was any change to her retired pay which clearly identified her as an SBP participant. If [REDACTED] had contacted this Headquarters, within the first year of her retirement, we would have provided her assistance via the administrative error correction process.

[REDACTED]

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