



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

BAN
Docket No. 05886-08
2 September 2008



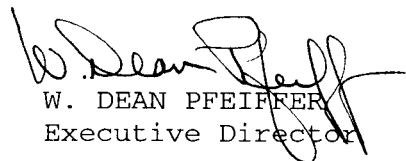
This is in reference to your application for correction of your deceased husband's naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 September 2008. 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 deceased husband's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Deputy Director Casualty Assistance Division (N135C) of 15 Aug 08, 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. 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 also 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

15 Aug 08

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-31C)

Subj: COMMENTS AND RECOMMENDATIONS ICO [REDACTED]
[REDACTED] DOCKET NO. 05886-08

Ref: (a) BCNR memo of 2 Jul 08

1. Per reference (a), recommend BCNR not correct [REDACTED] record to reflect that he enrolled his spouse in the Survivor Benefit Plan (SBP).
2. The recommendation is based on the following:
 - a. [REDACTED] was transferred to the Retired List on 1 December 1989. He was married and declined SBP coverage at that time. [REDACTED] spouse acknowledges declination of SBP and provided a copy of the NAVCOMPT Form 2272 with her application. He died on 12 January 2007.
 - b. [REDACTED] had an opportunity to enroll his spouse in the SBP during the 1 April 1992 to 31 March 1993, 1 March 1999 to 29 February 2000 and the 1 October 2005 to 30 September 2006 open season periods and failed to do so. Information about the open season periods were widely publicized in the Navy's quarterly retiree newsletter "Shift Colors" (the Navy's quarterly retiree newsletter). This newsletter is provided to all Navy retirees who maintain their correspondence address information up to date with the Defense Finance and Accounting Service-Cleveland Center (DFAS-CL).
3. [REDACTED] received a Retiree Account Statement (RAS) each time there was a change in his retired pay, and at least once annually, that clearly identified him as a non-participant in the SBP. Additionally, "Shift Colors" was provided to him and contained information regarding the aforementioned SBP open enrollment periods.



BASIL COLEMAN
Deputy Director
Casualty Assistance Section
(N135C)
Acting