



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

MEH:ddj  
Docket No: 4350-99  
8 September 1999

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased former 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 8 September 1999. 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 former spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 10 August 1999, 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**

10 Aug 99

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

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

Subj: COMMENTS AND RECOMMENDATION ICO LCDR GERLOUS G.  
[REDACTED]

Ref: (a) BCNR memo Pay of 20 Jul 99

1. Per reference (a), recommend the BCNR not correct LCDR Miller's record to reflect that he changed his election under the Survivor Benefit Plan (SBP) from spouse coverage to former spouse coverage effective 13 August 1986, the day after his divorce.

2. This recommendation is based on the following:

a. [REDACTED] transferred to the Retired List on 1 July 1969.

b. [REDACTED] effective SBP enrollment date was 13 September 1973.

c. [REDACTED] were divorced 12 August 1986.

d. [REDACTED] and Maryann Miller were married 13 August 1986. Mrs. Maryann Miller became subject named member's SBP beneficiary on their one-year marriage anniversary.

e. Public Law 99-145, enacted 8 November 1985 amended Title 10, U.S. Code, Sections 1445-1447 to permit coverage for former spouses under the spouse category.

f. Title 10, U.S. Code, Section 1448(f)(3), requires that SBP participants with spouse coverage who become divorced and desire to maintain their former spouses as their beneficiaries specifically elect such coverage within one year after the date of divorce.

g. Title 10, U.S. Code, Section 1450 (f) (3), permits former spouses to have court-ordered SBP elections deemed on the members' behalf if members do not voluntarily change their elections during the one-year timeframe. The former spouse must submit a written request to the Defense Finance and Accounting Service - Cleveland (DFAS-CL) within one-year of the court order.

Subj: 

3. Because neither  notified DFAS-CL within one year to continue coverage under the former spouse category, she became an ineligible beneficiary.

*M. P. Wardlaw*

M. P. WARDLAW  
Head, Navy Retired  
Activities Branch  
(PERS-622)