



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

MEH:ddj
Docket No: 4606-99
21 September 1999

[REDACTED]

[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 21 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 naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 13 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

13 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 [REDACTED]

Ref: (a) BCNR memo Pay of 28 Jul 99
(b) DoD Financial Management Regulation (Vol 7B)

Encl: (1) DD 2656-2

1. Per reference (a), recommend the BCNR not correct CDR McGovern's record to reflect that he did not enroll in the Reserve Component - Survivor Benefit Plan (RC-SBP) on 6 November 1982.
2. This recommendation is based on the following:
 - a. [REDACTED] transferred to the Retired Reserve List (without pay) 26 October 1982. He transferred the Reserve Retired List (with pay) 6 August 1999. [REDACTED] enrollment date was 6 November 1982.
 - b. Per reference (b), when CDR McGovern enrolled in RC-SBP, the decision to participate or decline SBP is irrevocable.
 - c. [REDACTED] wife and children were covered by RC-SBP from November 1982 to 6 November 1999.
3. [REDACTED] was mailed a Notice of Eligibility (NOE) prior to transferring to the Reserve Retired List (without pay). The information provided in the NOE package clearly explains the irrevocability of the option selected pertaining to RC-SBP, which rolls into SBP when the reservist begins receiving retired pay.
4. The National Defense Authorization Act for FY 1998 amended P.L. 105-85, Section 641, to provide for discontinuation in SBP during an open season for termination 17 May 1998 to 16 May 1999. Additionally, participants in SBP may terminate participation between their 25th and 36th month anniversary of premium paying

Subj: CCMMENTS AND RECOMMENDATION ICO CDR TERRENCE J. MCGOVERN,
USNR(RET.), 273-32-4053, DOCKET NO. 04606-99

in the plan. Enclosure (1) is provided for that purpose if CDR
McGovern still desires to terminate participation after his 25th
month of receipt of retired pay.

M. P. Wardlaw

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