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

MEH:ddj
Docket No: 145-00
18 July 2000

[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 18 July 2000. 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 7 June 2000, 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

7 Jun 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION ICO PO[redacted]

Ref: (a) BCNR memo of 5 May 00
(b) DoD Financial Management Regulation (Vol 7B)
(c) National Defense Authorization Act of FY-98

1. Per reference (a), recommend BCNR not correct PO1 Kettler's record to reflect that he declined enrollment in the Survivor Benefit Plan (SBP) spouse coverage category, with an effective date of 1 July 1990.

2. The recommendation is based on the following:

a. [redacted] transferred to the Fleet Reserve on 30 June 1990. He was enrolled in SBP automatically on 1 July 1990.

b. Public Law 92-425, which enacted SBP on 21 September 1972, provided that a retiree's participation in SBP at the maximum level was automatic unless the retiree specifically declined to participate prior to his date of retirement.

c. Per reference (b), a retiree who has been retired for over two years had a one time opportunity to disenroll from SBP between 17 May 1998 and 16 May 1999. He chose not to disenroll his spouse.

3. Extensive SBP information has been in "*Shift Colors*" (a quarterly newsletter mailed to all retirees). These articles identify Navy Retired Activities Branch as a source of SBP information. Also, DFAS-CL usually refers SBP questions to PERS-622.

4. It is recommended that [redacted] resubmit his Application for Correction of Military Record with additional supporting documentation, (i.e., letters to or from the Defense Finance and Accounting Service-Cleveland (DFAS-CL) or phone calls (names and dates)). Although he and his spouse had signed an Administrative Remarks (NAVPERS 1070/613 declining SBP spouse

Subj: COMMENTS AND RECOMMENDATION ICO [redacted]

coverage on 30 June 1990, it has been nearly 10 years since his transfer to the Fleet Reserve. If [redacted] had died during this timeframe, his spouse, Mrs. Lynda Kettler would have been eligible to receive an SBP Annuity based on her enrollment.

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