



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

DJC
Docket No. NR3406-13
19 Nov 13

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NPC Memo dtd 12 Sep 13
(3) DEERS system printout
(4) DD Form 214, Aug 2009 effective 30 Jun 12
(5) DD Form 2656, Apr 2009 dated 2 Mar 12
(6) DFAS HUNT system printout
(7) DD Form 2656, Apr 2009 dated 9 Nov 12
(8) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show the Petitioner declined enrollment in the Survivor Benefit Plan (SBP).

2. The Board, consisting of Mr. Pfeiffer, Mr. Zsalman, and Mr. George, reviewed Petitioner's allegations of error and injustice on 18 November 2013 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Petitioner and [REDACTED] were married on [REDACTED].
See enclosure (3).

b. Petitioner transferred to Fleet Reserve status on 30 June 2012. Furthermore, Petitioner declined Survivor Benefit Plan (SBP) coverage. See enclosures (4) and (5).

c. On or about 1 July 2012, Petitioner was automatically enrolled in SBP Spouse coverage as a result of the Defense Finance and Accounting Services (DFAS) Cleveland Center not receiving a valid SBP election form. See enclosures (6).

d. Petitioner submitted a DD Form 2656 (SBP election) to DFAS dated 9 November 2012 signed by the Petitioner and his spouse declining SBP Spouse coverage. See enclosure (7).

e. On 21 March 2013, the Petitioner submitted a DD Form 149 requesting correction to his SBP election. See enclosure (1). Furthermore, Petitioner provided a DD Form 2656 (SBP election) with spousal concurrence dated 2 March 2012. See enclosure (5).

f. Per enclosure (2), the Navy Personnel Command provided an advisory opinion concluding that the evidence proffered by Petitioner is insufficient to support the requested record change. The advisory opinion points out the following evidence to support its position: the Petitioner was automatically enrolled in the SBP as a result of DFAS not receiving a valid SBP election; the Petitioner's spouse has been protected under the SBP since his date of retirement; and had the Petitioner died during that period, his spouse would have received an SBP annuity. Moreover, the Petitioner may disenroll from the SBP program during the one-year period beginning on the second anniversary of the date of commencement of receiving retired pay.

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding the opinion expressed in enclosure (2), the Board finds the existence of an injustice warranting corrective action. The Board relied heavily on both notarized DD Forms 2656 provided by Petitioner and DFAS showing that both the Petitioner and his spouse declined coverage. Furthermore, one of the forms was completed prior to Petitioner's retirement. The Board concluded that the record should be changed to show that Petitioner made a proper and timely request to decline SBP spouse coverage prior to his retirement.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. Prior to his 30th June 2012 transfer to the Fleet Reserve, he declined enrollment in SBP. Any other election or declination executed by Petitioner is null and void.

b. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

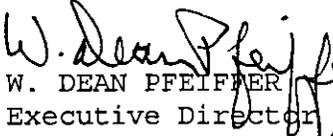
4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


BRONTE I. MONTGOMERY
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.

19 Nov 13


W. DEAN PFEIFFER
Executive Director

Reviewed and approved.

 12/9/13

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