



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

BAN
Docket No. NR04852-13
3 December 2013

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) Navy Personnel Command/Survivor Benefit Plan Program
Manager Casualty Assistance (PERS-13) memo of
18 Sept 2013
(3) DD Form 214 (20 Nov 2001 - 30 Sept 2002)
(4) Correction to DD Form 214
(5) Marriage Certificate btwn [REDACTED] and
[REDACTED]

1. Pursuant to the provisions of reference (a) Petitioner filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show Petitioner submitted a timely written request for Reserve Component Survivor Benefit Plan (RCSBP) coverage for his spouse [REDACTED] at the full base amount within one year of their marriage on [REDACTED]

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and George, reviewed Petitioner's allegations of error and injustice on 12 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. [REDACTED] (Petitioner) transferred to the retired list without pay, during June 2000. He was single at that time and had no eligible beneficiaries for enrollment in the RCSBP program.

c. Petitioner was activated to active duty in November 2001, immediately following the September 11, 2001 attacks, enclosures (3) and (4).

d. Prior to his deployment, Petitioner married [REDACTED], enclosure (5). He claims that he only had three weeks to take care of all of his personal affairs prior to the mobilization with a unit that he was not familiar with and did not know that he had to enroll his new spouse for RCSBP coverage.

e. Additionally, Petitioner notes that while on activated, he was unaware of any open enrollment seasons to enroll his spouse. He was finally released from the Reserves in September 2012, after 33 years of service.

f. By enclosure (2), NPC/SBP Manager recommended that no relief be granted, stating that the statutory filing deadline has expired. That Petitioner had one year from the date of his marriage to elect spousal coverage or during an open enrollment season and failed to do so.

CONCLUSION:

Upon review and consideration of all the evidence in the record, the Board concludes that Petitioner's request warrants favorable action. The Board found that the following factors militated in favor of relief: Petitioner was not married at the original time he first transferred to retired list and was not eligible for RCSBP enrollment since he did not have any eligible dependents. Additionally, the Board recognized that Petitioner did not submit an election within one year from the date of his marriage as required by applicable law. However in light of the extenuating circumstances of the events of September 11, 2001, where he was activated to active duty, the Board understood that he may not have had the time or knowledge to enroll his new spouse in the RCSBP program. Finally, the Board also understood and carefully considered the comments made in enclosure (2), that Petitioner could have enrolled his spouse during the one year of their marriage or during one of the open enrollment seasons. However, balancing the factors that militate in favor

of relief against those that militate against, the Board finds that, as an exception to policy, Petitioner's request should be granted favorable action.

RECOMMENDATION:

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

a. Petitioner executed a timely written request for enrollment in RCSBP coverage, at the full base amount, naming [REDACTED] as the sole beneficiary. The request was received by cognizant authority and became effective 18 November 2001, the day following the date of marriage.

b. Petitioner is responsible for all RCSBP premiums costs that will be calculated into his RCSBP payments at the time he reaches age 60. There is no waiver authorized.

c. That a copy of the Report of Proceedings, be filed in the Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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
BRONTE I. MONTGOMERY
Acting Recorder

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

W. Dean Pfeuffer
W. DEAN PFEUFFER
Executive Director

Robert L. Woods 12/9/13
Reviewed and approved:
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