



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

■
Docket No. 3052-20
Ref. Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED],
XXX-XX-[REDACTED] USMC RET

Ref: (a) 10 U.S.C. § 1552
(b) DODFMR, Vol 7B, Chapter 43

Encl: (1) DD Form 149 w/attachments
(2) Divorce Decree of 30 Apr 99
(3) DEERS Screens
(4) DD Form 2656 of 29 Apr 01
(5) MCTFS – BIR Screen
(6) HUNT Screens
(7) Divorce Decree of 6 Jun 11

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to establish his current spouse as Survivor Benefit Plan (SBP) beneficiary.
2. The Board reviewed Petitioner's allegations of error and injustice on 28 July 2021, 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 enclosures (1) through (7), relevant portions of Petitioner's 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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:
 - a. In accordance with reference (b), if on the date of retirement the member has no eligible spouse and declines coverage for an eligible child; the member may, within 1-year of the acquisition of a spouse, elect that spouse for SBP coverage.
 - b. Petitioner married [REDACTED] on 4 December 1976. See enclosure (2)
 - c. Petitioner's children were born: [REDACTED] on 22 September 1980, [REDACTED] on 24 April 1982, and [REDACTED] on 8 September 1984. See enclosure (3).

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d. Petitioner divorced [REDACTED] on 30 April 1999. The Judgement did not direct SBP Former Spouse coverage. See enclosure (2).

e. On 29 April 2001, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel and elected not to participate in SBP. See enclosure (4).

f. Petitioner transferred to the Retired List effective 1 May 2001. See enclosure (5).

g. Petitioner married [REDACTED] on 12 July 2004 and did not elect to participate in SBP coverage. See enclosures (3) and (6).

h. Petitioner divorced [REDACTED] on 6 June 2011. The Judgement did not direct SBP Former Spouse coverage. See enclosure (7).

i. Petitioner married [REDACTED] on 20 November 2012. See enclosure (3).

MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board majority concluded the Petitioner's request warrants favorable corrective action. In this regard, the Board majority determined Petitioner met the basic eligibility criteria to participate in SBP upon getting married subsequent to retirement in accordance with reference (b). However, a review of his record indicates he failed to enroll his second spouse resulting in his inability to obtain coverage for his current spouse. The Board majority felt, Petitioner might have lacked understanding of the SBP regulations and procedures in electing coverage; therefore, under these circumstances, relief is warranted.

MAJORITY RECOMMENDATION

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

Petitioner elected SBP Spouse coverage naming [REDACTED] as beneficiary, at the full retired pay level of coverage within 1-year of marriage on 12 July 2004.

Petitioner suspended SBP Spouse coverage within 1-year of divorcing [REDACTED] on 6 June 2011.

Petitioner resumed SBP Spouse coverage naming [REDACTED] as beneficiary, at the same level of coverage as previously elected within 1-year of marriage on 20 November 2012.

Note: No waiver of unpaid premiums will be granted.

MINORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board minority member determined that reference (b) clearly outlined the requirements and procedures in the

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administration of enrollments and beneficiary changes for participation in SBP. The Board minority member noted Petitioner did not enroll in SBP, commensurate with his second marriage. Additionally, Petitioner was aware of not being enrolled in SBP coverage as his retirement account statement did not reflect any premium deductions for SBP coverage, thereby clearly demonstrating his wish not to participate; therefore, relief is not warranted.

MINORITY RECOMMENDATION

That the Petitioner's request be denied.

4. It is certified that a 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.

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

8/11/2021

[REDACTED]

Executive Director

Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Majority Board Recommendation (Grant Relief)

~~Review and Approved Minority Board Recommendation (Deny Relief)~~

10/31/2021

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]