



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

[REDACTED]
Docket No. 223-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET,
XXX-XX-[REDACTED] (DECEASED)

Ref: (a) Title 10 U.S.C. § 1552
(b) DoDFMR Vol 7B, Chp 43

Encl: (1) DD Form 149 w/attachments
(2) DEERS Screenshots
(3) DD Form 2656 of 14 Feb 07
(4) DD Form 214
(5) BCNR Docket #3849-19 of 19 Jun 20
(6) Notary's Notarized Witness Statement of 24 Jul 20
(7) Additional Witness Statement

1. Pursuant to the provisions of reference (a), Subject's Widow, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her deceased spouse's naval record be corrected to establish entitlement to Survivor Benefit Plan (SBP) annuity.
2. The Board, reviewed Petitioner's allegations of error and injustice on 28 January 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, 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. In accordance with reference (b), in the case of a member electing a standard SBP annuity, the member must make such election before retired pay becomes payable and the election to participate in or decline SBP is irrevocable unless the Secretary considers it necessary to correct an administrative error.
 - c. Subject married [REDACTED] on 24 July 1993. See enclosure (2).

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d. Subject submitted DD Form 2656, Data for Payment of Retired Personnel declining to participate in SBP with spouse notarized concurrence on or about 14 February 2007. See enclosure (3).

e. Subject transferred to the Fleet Reserve effective 1 June 2007. See enclosure (4).

f. Subject's date of death was 3 October 2016. See enclosure (2).

g. On 2 April 2020, Docket #3849-19 was denied by the Board as a result of insufficient evidence to substantiate claim. See enclosure (5).

h. On 26 July 2020, [REDACTED] attested before a notary witness that she has come to learn when she notarized the DD Form 2656, Data for Payment of Retired Personnel signed on 14 February 2007, the person that appeared before her back than was not the Petitioner and at the time she did not request the person provide her with identification. See enclosure (6).

i. On 24 November 2020, [REDACTED] signed a witness statement clarifying his account of "what has taken place in this matter and the reasons for it...". See enclosure (7).

MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the majority Board members concluded Petitioner's request warrants favorable corrective action. In this regard, the majority Board members felt Petitioner provided sufficient evidence to support her claim of her signature being forged on DD Form 2656, Data for Payment of Retired Personnel and not being aware of Subject's election to not participate in SBP coverage.

MAJORITY RECOMMENDATION

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

Petitioner elected to participate in SBP Spouse coverage, naming [REDACTED] as beneficiary, at the full gross pay level of coverage prior to transferring to the Fleet Reserve effective 1 June 2007.

No waiver of premiums will be granted.

MINORITY CONCLUSION

Upon review and consideration of all the evidence of record, the minority Board member concluded Petitioner's request does not warrant favorable corrective action. In this regard, the minority Board member felt Subject's record reflects his declination to participate in SBP with spouse concurrence. Because, the Board is not an investigative body, there is no way to verify the allegations of Petitioner's signature being forged.

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MINORITY RECOMMENDATION

Petitioner's request be denied.

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

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.

2/9/2021

[REDACTED]

Executive Director

Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Majority Board Recommendation (Grant Relief)

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

[REDACTED]

[REDACTED]
Assistant General Counsel (M&RA)

Signed by: [REDACTED]