



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

█
Docket No. 1177-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, USN RET,
XXX-XX-█

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

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

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 Survivor Benefit Plan (SBP) Former Spouse coverage.

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 10 November 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 the enclosures, relevant portions of Petitioner's naval record, 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), SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. However, a member with spouse or spouse and child coverage may change coverage to former spouse or former spouse and child coverage within 1-year of decree of divorce, dissolution, or annulment, whichever is later. Furthermore, the former spouse is an eligible beneficiary under SBP, provided, they do not remarry prior to reaching the age of 55.

b. Petitioner married █ on 12 August 1972.

c. On 3 January 1995, Petitioner signed NAVCOMPT Form 2272, Navy Retired/Retainer Pay Data Form, electing SBP Spouse only coverage.

d. Petitioner transferred to the Fleet Reserve effective 1 February 1995 and SBP premium deductions began.

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e. Petitioner divorced [REDACTED] on 13 August 2010. Final Order and Decree of Divorce directed SBP Former Spouse coverage.

f. Petitioner married [REDACTED] on 9 April 2011.

g. Petitioner's first spouse, [REDACTED] remarried on [REDACTED]; she was 64-years old on the date of marriage.

h. Petitioner and spouse signed SBP Affidavit on 1 November 2021 before a notary witness, electing SBP Former Spouse coverage.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner failed to elect SBP Former Spouse coverage as directed by the Final Order and Decree of Divorce within 1-year of divorce in accordance with reference (b). However, Subject continued to pay SBP premiums after his divorce and former spouse [REDACTED] continued to be named as the annuitant. Although Petitioner did not complete the proper administrative requirements, the Board felt that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner elected to change SBP coverage from "Spouse" to "Former Spouse" naming [REDACTED] as the beneficiary, at the same level of coverage as previously elected within 1-year of divorce on 13 August 2010.

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. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

12/3/2021

[REDACTED]
Deputy Director

Signed by: [REDACTED]