



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

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2260-21
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]

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

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 election of Survivor Benefit Plan (SBP) Former Spouse.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 27 October 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 that election to provide an annuity to a former spouse or former spouse and child within 1 year of date of decree of divorce, dissolution, or annulment, whichever is later.

b. Petitioner married [REDACTED] on 2 July 2006.

c. On 18 October 2016, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel electing SBP Spouse only coverage at the full gross pay level of coverage.

d. Petitioner transferred to the Fleet Reserve on 1 March 2017 and SBP premiums began.

e. Petitioner divorced [REDACTED] on 26 March 2019. SBP Former Spouse coverage was directed.

f. On 17 November 2020, Petitioner's former spouse, [REDACTED] signed DD Form 2656-10, Survivor Benefit Plan (SBP) Former Spouse Request for Deemed Election. Defense Finance and

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Accounting Service (DFAS) denied the request because it was received more than 1-year from divorce date; however, Petitioner's SBP premium deductions were suspended effective the date of divorce.

g. Petitioner married [REDACTED] on 1 January 2021.

h. On 27 May 2021, Petitioner and spouse sign SBP Affidavit before a notary witness and elected 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 Agreed Final Decree of Divorce within 1-year of divorce in accordance with reference (b). Although the 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 26 March 2019.

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.

11/6/2021

[REDACTED]
[REDACTED]
Deputy Director
[REDACTED]