



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

█
Docket No. 7820-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD IC0 █
█ USMC RET

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 reflect participation in the Survivor Benefit Plan (SBP) Former Spouse coverage.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 16 February 2022 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. Any member who elected spouse or spouse and child coverage when becoming eligible to participate in the SBP, may within one year of the date of the decree of divorce, dissolution, or annulment of the marriage, change that election to provide the SBP annuity to the former spouse or the former spouse and child.

b. Petitioner married █ on 3 May 1980, and divorced on 2 February 1990. Final Decree of Divorce did not direct SBP Former Spouse coverage.

c. Petitioner married █ on 25 November 1991.

d. Petitioner transferred to the Retired List effective 1 October 1992 and SBP Spouse premium deduction began.

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e. Petitioner divorced [REDACTED] on 6 March 2019. Judgement of Divorce directed SBP Former Spouse coverage.

f. Petitioner married [REDACTED] on 30 March 2019.

g. On 2 July 2021, Petitioner signed DD Form 2656-1, Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage to provide SBP Former Spouse coverage to [REDACTED]; Defense Finance and Accounting Service (DFAS) denied election on 25 August 2021 as a result of not receiving the election with 1-year of divorce.

h. On 8 February 2022, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to change election to 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 Judgement of Divorce in accordance with reference (b). 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, within 1-year of divorce on 6 March 2019.

Note: DFAS will complete an audit of Petitioner's pay records to determine if premiums are due.

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.

3/7/2022

[REDACTED]