



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

[REDACTED]
Docket No. 8064-21
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,
[REDACTED] (DECEASED)

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 31 U.S.C. § 3702

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

1. Pursuant to the provisions of reference (a), Subject's niece, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her uncle's naval record be corrected to reflect entitlement to Survivor Benefit Plan (SBP) credit.
2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 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 Subject'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, she exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:
 - a. Subject married [REDACTED] on 3 January 1970 and divorced on 17 May 1976. Final Decree of Divorce did not direct SBP Former Spouse coverage.
 - b. On 16 November 1985, Subject signed NAVCOMPT Form 2272, Navy Retired/Retainer Pay Data Form indicating [REDACTED] as his spouse and elected SBP Spouse coverage at the full gross pay level of coverage.
 - c. Subject transferred to the Fleet Reserve effective 1 January 1986 and SBP Spouse coverage premium deductions began.
 - d. On 26 December 2012, Subject designated [REDACTED] and [REDACTED] as Joint Personal Representatives of Estate.
 - e. Subject paid SBP Spouse coverage premiums through 31 December 2015; 360 payments.
 - f. Subject passed away on 17 June 2020.

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g. On 17 December 2020, Petitioner signed SF 1174, Claim for Unpaid Compensation of Deceased Member of the Uniformed Services.

h. On 27 May 2021, Defense Finance and Accounting Service (DFAS) denied Petitioner's claim for SBP refund, in the amount of \$29,578.59 for the period of 1 January 1986 through 17 June 2014, in accordance with reference (b).¹

i. On 16 February 2022, DFAS confirmed SBP credit paid to Subject's estate in the amount of \$2,204.58 for the period of 18 June 2014 through 31 December 2015, and the remainder of the credit was barred in the amount of \$29,578.59 for the period of 1 January 1986 to 17 June 2014.

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 provided sufficient evidence reflecting the extenuating circumstances surrounding the timeline in which the appropriate documentation and claims were filed; therefore, under these circumstances, relief is warranted.

RECOMMENDATION

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

Subject declined participation in SBP coverage prior to transferring to the Fleet Reserve effective 1 January 1986. All previous elections are null and void.

Note: DFAS will complete an audit of Subject's pay records and determine the amount of SBP credit due to Subject's estate.

A copy of this Report of Proceedings will be filed in Subject'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.

3/18/2022

[REDACTED]
Deputy Director
[REDACTED]

¹ In accordance with reference (b), claims involving uniformed service members' pay, allowances, travel, and transportation, payments for unused accrued leave, retired pay, and survivor benefits must be received within 6 years from the date it accrues. SBP credit claims accrue upon the death of the retired member.