



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

█  
Docket No. 3467-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █  
XXX XX █ USMC RET (DECEASED)

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

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

1. Pursuant to the provisions of reference (a), █, executor of Subject's Last Will and Testament and hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting Subject's naval record be corrected to establish Subject's former spouse as Survivor Benefit Plan (SBP) beneficiary.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 15 June 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, 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), a member with spouse or spouse and child coverage may, within 1 year of date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child.

b. Subject married █ on 21 July 1997.

c. Subject had two children: █ born on █ and █ born on █.

d. On 14 August 2006, Subject signed DD Form 2656, Data for Payment of Retired Personnel, electing SBP Spouse and Child coverage.

e. Subject transferred to the Retired List effective 1 October 2006 and SBP premium deductions began.

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f. Subject divorced [REDACTED] on 12 September 2014. Final Decree of Divorce directed SBP Former Spouse coverage.

g. Subject passed away on 9 March 2020.

h. Subject's former spouse submitted a DD Form 2656-7, Verification for Survivor Annuity, to DFAS on 14 April 2020; DFAS denied the application on 27 April 2020 because Subject "did not make a request to change his election to former spouse coverage nor was a deemed election for former spouse coverage made by you."

i. Subject's former spouse appealed DFAS's denial on 1 May 2020; Defense Office of Hearings and Appeals upheld the denial on 28 April 2021.

## 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 determined Subject failed to change his SBP coverage from Spouse to Former Spouse within 1-year of divorce in accordance with reference (b). Although Subject did not complete the proper administrative requirements, the Board felt that under these circumstances, relief is warranted.

## RECOMMENDATION

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

Petitioner elected to change SBP coverage from "Spouse and Children" to "Former Spouse" naming [REDACTED] as the beneficiaries, at the same level of coverage as previously elected within 1-year of divorce on 12 September 2014.

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.

6/23/2022

[REDACTED]  
Deputy Director

Signed by: [REDACTED]