



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

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Docket No. 3856-22
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) 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's widow, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her husband's naval record be corrected to establish her eligibility to receive Survivor Benefit Plan (SBP) annuities.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 22 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 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), an SBP election must be made prior to a member becoming eligible to retired pay and that election is irrevocable. However, if on the date of retirement the member has no eligible beneficiaries and does not elect to participate; the member may, within 1-year of the acquisition of a spouse or child, elect for that spouse and/or child.

b. Subject married [REDACTED] on 15 July 1988.

c. Subject's first child, [REDACTED], was born on 25 June 1992.

d. Subject divorced [REDACTED] on 8 June 2004. Amended Judgement of Absolute Divorce did not direct SBP Former Spouse coverage.

e. Subject transferred to the Fleet Reserve effective 1 August 2005 and erroneously automatically enrolled in SBP Spouse coverage with premium deductions.

f. Subject married Petitioner, [REDACTED], on 30 October 2009.

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g. On 10 February 2010, Subject signed DD Form 2894, Designation of Beneficiary Information, to designate Petitioner as his beneficiary to receive arrears of pay upon his death.

h. Subject passed away on 19 November 2021.

i. On 27 January 2022, Petitioner signed DD Form 2656-7, Verification for Survivor Annuity; Defense Finance and Accounting Service denied Petitioner's request due to Subject not electing SBP Spouse coverage within 1-year from the date of their marriage.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. Subject was erroneously automatically enrolled in SBP Spouse coverage as he did not have an eligible spouse beneficiary at the time he became eligible to receive retired pay. Subject paid 196 SBP Spouse premium payments through his date of death and elected Petitioner to be the beneficiary for his arrearages of pay within 1-year from the date of marriage; therefore, the Board felt that 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 Fleet Reserve effective 1 August 2005.

Subject elected SBP Spouse coverage naming [REDACTED] as the beneficiary at the full-retired pay level of coverage within 1-year of marriage on 30 October 2009.

Note: Defense Finance and Accounting Service will complete an audit of Subject's pay records to determine SBP premium refund due to Petitioner.

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.

6/29/2022

[REDACTED]