



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

[REDACTED]
Docket No. 5366-22
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, XXX-XX-[REDACTED]

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), 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 designation of former spouse as a Survivor Benefit Plan (SBP) beneficiary.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 September 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. Petitioner married [REDACTED] on 16 October 1993, and on 6 July 2007, Petitioner's son, [REDACTED] is born.

b. On 31 July 2013, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel electing SBP Spouse and Child coverage at the full gross pay level of coverage.

c. Petitioner transferred to the Fleet Reserve effective 1 February 2014 and SBP Spouse and Child premium deductions began.

d. Petitioner divorced [REDACTED] on 29 November 2017. Judgement of Dissolution directed SBP Former Spouse coverage.

e. Petitioner married [REDACTED] on 16 February 2019.

f. On 3 May 2022, Petitioner's former spouse signed DD Form 2656-10, SBP Former Spouse Request for Deemed Election; Defense Finance and Accounting Service received the form on 4 May 2022.

g. On 15 September 2022, Petitioner and spouse signed SBP Affidavit before a notary witness requesting 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 Judgement of Dissolution and in accordance with reference (b).¹ 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 changed SBP election from “Spouse and Child” to “Former Spouse and Child ” coverage naming [REDACTED] and [REDACTED] as the beneficiaries, at the same level of coverage as previously elected within 1-year of divorce on 29 November 2017.

Note: No waiver of unpaid premiums.

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.

10/6/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]

¹ Reference (b), SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. Members who elected spouse or spouse and child coverage when becoming eligible to participate in the SBP, may within 1-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. Deemed elections are applicable in cases where a member enters, incident to a proceeding of divorce, dissolution, or annulment and required by the court to make a former spouse election. If a member fails or refuses to make such election, the member is deemed to have made such election if the Secretary concerned receives a completed DD Form 2656-10, SBP Former Spouse Request for Deemed Election from a former spouse or former spouse’s attorney within 1-year of divorce, dissolution, or annulment.