



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

■  
Docket No. 6909-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] [REDACTED]  
[REDACTED] USMC RET

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, 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 establish Survivor Benefit Plan (SBP) Former Spouse coverage.

2. The Board, consisting of [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 October 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 19 August 1989.

b. Petitioner transferred to the Retired List effective 1 January 2000. The Defense Finance and Accounting Service (DFAS) automatically enrolled Petitioner in SBP Spouse coverage due to not receiving his DD Form 2656, Data for Payment of Retired Personnel.

c. Petitioner divorced [REDACTED] on 6 May 2019. Final Order of Divorce directed SBP Former Spouse coverage.

d. On 9 August 2019, Petitioner submitted a letter to DFAS requesting SBP Former Spouse coverage; DFAS denied the request on 7 October 2019 as a result of only receiving the Marital Settlement Agreement and not the Final Order of Divorce.

e. On 10 March 2020, DFAS sent Petitioner another letter indicating, "Please send a copy of your Final Divorce decree with Judge's signature, we received a copy of your property

Subj: REVIEW OF NAVAL RECORD IC [REDACTED]  
[REDACTED] USMC RET

settlement agreement but no the Divorce decree. Also please complete the enclosed DD2656-1.”

f. On 8 June 2020, Petitioner submitted Final Order of Divorce and DD Form 2656-1, Survivor Benefit Plan (SBP) Election Statement for Former Spouse coverage; DFAS rejected the request on 20 July 2020 due to receiving the complete request more than 1-year from the date of the divorce.

## 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 initiated making a change from SBP Spouse to SBP Former Spouse coverage shortly after his divorce but failed to provide the required documentation to complete the change to his election within 1-year of divorce as required by reference (b).<sup>1</sup> 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 properly elected to change SBP coverage from “Spouse” to “Former Spouse” naming [REDACTED] as the beneficiary, at the same retired pay level of coverage as previously elected within 1-year of divorce on 6 May 2019. Note: No waiver of unpaid premiums will be granted.

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.

10/14/2022

[REDACTED]

Deputy Director

[REDACTED]

---

<sup>1</sup> Reference (b), SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. However, 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.