



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

■
Docket No. 793-23
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

Ref: (a) Title 10 U.S.C. § 1552
(b) DOD 7000.14-R, 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 ■■■■■■■■■■, and ■■■■■■■■■■ reviewed Petitioner's allegations of error and injustice on 5 April 2023 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 ■■■■■■■■■■ on 18 April 1996, and Petitioner's child, ■■■■■■■■■■, was born on ■■■■■■■■■■.

b. On 7 October 2010, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel, electing to participate in SBP Spouse and Child coverage, and transferred to the Fleet Marine Corps Reserve effective 1 December 2010.

c. On 10 October 2017, Petitioner divorced ■■■■■■■■■■ and Final Order of Divorce directed SBP Former Spouse coverage.

d. On 26 July 2021, Petitioner signed DD Form 2656-1, SBP Election Statement for Former Spouse Coverage, and submitted to Defense Finance and Accounting Service (DFAS).

e. Petitioner married ■■■■■■■■■■ on 18 September 2021.

f. On 21 November 2022, DFAS notified Petitioner, "Your Survivor Benefit Plan (SBP) coverage has changed from Spouse & child to Child, with an effective date of 10-Oct-2017. As a result, your monthly

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SBP cost has changed to \$3.40. This change will be reflected in your payment dated 30-Nov-2017. Since this is a retroactive change, you have been overcharged for SBP in the amount of \$6552.89.”

g. On 17 February 2023, Petitioner acknowledged there would be no waivers for any past due premiums this record correction may cause.

h. On 18 April 2023, Petitioner submitted an SBP Affidavit to request former spouse coverage under SBP with notarized spousal concurrence from his current spouse.

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 change SBP election to Former Spouse coverage as directed by the Final Order of Divorce 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” coverage naming [REDACTED] as the beneficiary, at the same level of coverage as previously elected within 1-year of divorce on 10 October 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.

4/21/2023

[REDACTED]

Deputy Director

[REDACTED]

¹ Reference (b), an irrevocable election to participate in SBP must be made prior to becoming eligible to receive retired pay. However, a member with spouse or spouse and child coverage may, within 1-year of the date of 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.