



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

[REDACTED]
Docket No. 1169-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN
XXX-XX-[REDACTED] (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 reflect he elected not to resume Survivor Benefit Plan (SBP) participation for his current spouse.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 May 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. In accordance with reference (b), a member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary, may, upon remarriage resume coverage, increase the level of coverage up to and including full retired pay, or elect not to have spouse coverage resumed. Furthermore, unless a member elects not to cover the new spouse within 1-year after the marriage, spouse coverage automatically resumes at the first anniversary of the marriage.

b. Petitioner married [REDACTED] on 25 April 1970.

c. On 3 August 1993, Petitioner signed DD Form 2656, Data for Payment or Retired Personnel, electing SBP Spouse only coverage based on full gross retired pay level of coverage.

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d. Petitioner transferred to the Fleet Reserve effective 1 November 1997 and SBP Spouse only premium deductions began.

e. On 4 January 2019, Petitioner's spouse passed away.

f. On 2 February 2019, Petitioner signed DD Form 2656-6, Survivor Benefit Plan Election Change Certificate electing to suspend SBP coverage due to death of spouse; Defense Finance and Accounting Service (DFAS) suspended SBP coverage effective 4 January 2019.

g. On 2 May 2020, Petitioner married [REDACTED].

h. On 2 May 2021, DFAS automatically resumed Petitioner's SBP Spouse coverage.

i. On 30 November 2022, Petitioner signed DD Form 2656-6, Survivor Benefit Plan Election Change Certificate, requesting to not resume SBP Spouse coverage; DFAS notified Petitioner, "We cannot accept the request to decline spouse coverage after the one year anniversary of marriage."

j. On 6 March 2023, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to decline SBP 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 provided sufficient evidence to reflect his and current spouse's desire to decline resuming SBP Spouse coverage. 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 decline resuming SBP Spouse coverage, within 1-year of remarriage to [REDACTED] on 2 May 2020.

Note: DFAS will complete an audit of Petitioner's pay records to determine the amount of premium refund.

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

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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.

5/17/2023

