



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. 7575-23
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

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 7 February 2024 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 with spouse coverage may, within 1-year of the date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse. When a member elects former spouse coverage, the member and former spouse must complete an election statement indicating whether the election is being made pursuant to the requirements of a court order or by a voluntary written agreement. If the member entered into a voluntary written agreement as a part of, or incident to, a proceeding of divorce, dissolution or annulment, the member must indicate on the written statement whether the agreement has been incorporated in, ratified, or approved by court order.

b. On 26 August 1995, Petitioner married ■■■■■■■■■■.

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c. Petitioner transferred to the Retired List effective 1 November 2011 and automatically enrolled in SBP Spouse and Children coverage because Defense Finance and Accounting Service did not receive a DD Form 2656, Data for Payment of Retired Personnel.

d. On 25 February 2021, Petitioner signed DD Form 2656-8, SBP – Automatic Coverage Fact Sheet and submitted to the Defense Finance and Accounting Service for processing.

e. On 31 August 2022, Petitioner divorced [REDACTED]. Agreed Final Decree of Divorce indicates, “The Court finds that the parties have entered into a written agreement as contained in this decree by virtue of having approved this decree as to both form and substance. To the extent permitted by law, the parties stipulate the agreement is enforceable as a contract. The Court approves the agreement of the parties as contained in this Final Decree of Divorce.” The agreement did not direct SBP Former Spouse coverage.

f. On 13 September 2022, Petitioner and former spouse signed DD Form 2656-1, SBP Election Statement for Former Spouse Coverage and annotated that the election was not pursuant to the requirements of a court order. However, Defense Finance and Accounting Service does not have record of receiving the DD Form 2656-1.

g. On 30 August 2023, Defense Finance and Accounting Service notified Petitioner “[w]e received your recent correspondence but cannot take action at this time because additional information is needed. Other: We received your divorce decree dated August 31, 2022. Please note, your current SBP Spouse beneficiary is no longer eligible for coverage due to divorce and valid deemed election for Former Spouse coverage was not received. Complete, sign, and return the: DD 2656-6 SBP Election Change Certificate.”

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 desire to elect SBP Former Spouse coverage within 1-year of his divorce. Although Petitioner did not complete the proper administrative requirements, the Board determined that under this circumstance, relief is warranted.

RECOMMENDATION

That Petitioner’s naval record be corrected, where appropriate, to show that:

Petitioner changed SBP election from “Spouse and Children” to “Former Spouse” coverage naming [REDACTED] as the beneficiary, at the same level of coverage as previously elected within 1-year of divorce on 31 August 2022.

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.

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XXX XX [REDACTED] [REDACTED] USMC RET

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.

2/23/2024

