



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

[REDACTED]
Docket No. 317-17
DEC 11 2017

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

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED] USNR RET (DECEASED), [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NPC memo 1750 PERS-13 dtd 6 Jun 17
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject's widow, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show timely written request for retirement pay and enrollment in spouse coverage under the Survivor Benefit Plan (SBP).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 September 2017 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, naval records, and applicable statutes, regulations and policies. Although the application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the application on its merits.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants partial favorable action.

c. On 18 October 1958, Subject married [REDACTED]

d. On 6 March 1973, Subject received his Notice of Eligibility (NOE) to transfer to the Retired Reserve awaiting pay at age 60.

Subj: REVIEW OF NAVAL RECORD ICO

[REDACTED] USNR RET (DECEASED) [REDACTED]

e. In 1978, Public Law 95-397 established the Reserve Component Survivor Benefit Plan (RCSBP). The initial open season enrollment period ran from 1 October 1978 through 30 September 1979 and later extended to 31 March 1980.

f. On [REDACTED] Subject turned 60 years old and was eligible to begin receiving retired pay, however, he did not request to transfer to the Retired Reserve or apply for retired pay benefits.

g. On 1 Oct 1989, Subject was transferred to the Retired List without pay effective 1 October 1986, after he attained the statutory retirement age of 62.

h. Subject died on 22 June 2016.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following partial corrective action.

RECOMMENDATION:

That Subject's naval record be partially corrected, where appropriate, to show that:

Prior to transferring to the Retired Reserve at age 62, effective 1 October 1986, Subject submitted a timely application to receive retired pay benefits.

That part of the Petitioner's request for corrective action that exceeds the foregoing is denied, specifically, her request to reflect timely enrollment in RCSBP spouse coverage. In 1978, Public Law 95-397 established the Reserve Component Survivor Benefit Plan (RCSBP), allowing service members to elect or decline survivor coverage prior to reaching age 60. Service members were required to elect coverage during the one-year open season enrollment period, established from October 1978 through September 1979. There is no evidence in the record that indicates an election of RCSBP coverage during this period. Furthermore, the Board highlighted that there were three additional open season enrollment periods subsequent to the initial period, none of which resulted in the election of spouse RCSBP coverage.

A copy of this Report of Proceedings will be filed in Subject's naval record.

4. It is certified that 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.

[REDACTED]
Recorder

Subj: REVIEW OF NAVAL RECORD ICO

[REDACTED] USNR RET (DECEASED) [REDACTED]

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED]
Executive Director