



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

[REDACTED]
Docket No. 445-17

APR 30 2017

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

Subj: REVIEW OF NAVAL RECORD ICO

[REDACTED] USMC RET

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

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 this Board requesting, in effect, that the applicable naval record be corrected to show timely written request for election of spouse and child coverage under the Survivor Benefit Plan (SBP).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 9 March 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.

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. On 25 March 2015, Petitioner signed a DD Form 2656 declining coverage under the SBP. Petitioner was prescribed and was taking strong medication for pain management of his advanced cancer at the time he signed the form. Petitioner claims that he was not fully aware of what he was signing and that he received insufficient counselling regarding the SBP.

c. On 31 March 2015, Petitioner was transferred to the Temporary Disability Retired List (TDRL).

d. On 1 December 2016, Petitioner was transferred from the TDRL to the Permanent Disability Retired List.

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CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the Petitioner's claim that he was taking strong pain medication which altered his cognitive abilities at the time of his medical retirement, the Board finds the existence of an injustice warranting the following corrective action.


RECOMMENDATION:

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

- a. Prior to his 31 March 2015 transfer to the TDRL, Petitioner elected Survivor Benefit Plan (SBP) full spouse and child coverage. Any other election or declination executed by Petitioner is null and void.
 - b. Petitioner is responsible for unpaid SBP costs that would have been deducted beginning at the date of his transfer to the TDRL. No waiver of unpaid premiums will be granted.
 - c. A copy of this Report of Proceedings will be filed in Petitioner'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.


Recorder

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.


Executive Director