



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

[REDACTED]
Docket No. 5501-17
DEC 07 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 to elect spouse coverage at a reduced rate under the Survivor Benefit Plan (SBP).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 August 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 30 March 2015, Petitioner divorced [REDACTED]. The court ordered former spouse SBP coverage. To equally apply the burden of SBP premiums, the court ordered the Petitioner to pay the premiums but reduced the base rate of coverage to account for the wife's share of the premiums.

c. The language of the order was unclear, and when the Petitioner sought SBP counselling, he was incorrectly informed that he had to choose maximum spouse SBP coverage in order to be in compliance with the court order. On 6 June 2016, Petitioner signed DD Form 2656 electing maximum former spouse SBP coverage.

d. On 30 June 2016, Petitioner retired.

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e. On 20 April 2017, the court issued a clarifying order, specifically stating that Petitioner was only required to elect former spouse coverage with a reduced base amount of 32.3171% of his retired pay.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the court's order of former spouse SBP coverage at a reduced rate, 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:

The Petitioner elected Survivor Benefit Plan (SBP) former spouse coverage at a reduced rate, naming [REDACTED] as annuitant, within one year of the date of his divorce (which occurred on 30 March 2015). Any other election or declination executed by Petitioner is null and void.

Note: This is in compliance with a court order.

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.

[REDACTED]
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.

[REDACTED]
Executive Director