



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

[REDACTED]
Docket No. 7482-17
MAR 20 2018

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

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

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's daughter, 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 conversion from spouse to former spouse coverage under the Reserve Component Survivor Benefit Plan (RCSBP).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 8 February 2018 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 your application, together with all material submitted in support thereof, relevant portions of your 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, 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 19 March 1986, Subject received his Notice of Eligibility (NOE) letter and was enrolled in spouse and child RCSBP full coverage (Option C).

c. Subject transferred to the Retired Reserve on 1 October 1989.

d. Subject divorced [REDACTED] on 1 October 1999.

e. On 28 October 1999, the Court issued an "Order for the Division of Interest in Military Retired Pay," directing former spouse RCSBP coverage.

f. On 28 January 2000, the Defense Finance and Accounting Service (DFAS) acknowledged receipt of [REDACTED] deemed election, however the coverage category was never changed from spouse to former spouse.

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g. Subject turned 60 on 9 September 2001.

h. On 31 July 2004, Subject married [REDACTED]

i. [REDACTED] died on 26 January 2016.

j. Subject died on 3 July 2016.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting corrective action due to the following: Subject elected spouse and child RCSBP coverage upon receipt of his NOE. Subject subsequently divorced and the court ordered former spouse RCSBP coverage. Although DFAS acknowledged receipt of the deemed election, the coverage category was never changed from spouse to former spouse. In light of the error associated with the deemed election, the Board concluded that a measure of relief is warranted.

RECOMMENDATION

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

The Subject changed his RCSBP coverage category from spouse to former spouse naming [REDACTED] as the annuitant, at the same level of coverage as previously elected, within one year of the date of the divorce (which was finalized on 1 October 1999). Any other election or declination executed by the Subject is null and void.

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

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