



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

[REDACTED]
Docket No. 7964-17
MAR 14 2018

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

Subj: REVIEW OF NAVAL RECORD IC [REDACTED] USN 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 son, 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 Survivor Benefit Plan (SBP).

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 deceased father'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, 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 13 October 1984, Subject married [REDACTED]

c. On 30 June 2005, Subject transferred to the Fleet Reserve and was auto-enrolled in "spouse" SBP coverage.

d. On 2 May 2016, Subject divorced [REDACTED]. The court ordered "former spouse" SBP coverage, but the coverage category was not changed from spouse to former spouse.

e. Subject died on 21 August 2017.

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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 was auto-enrolled in "spouse" SBP coverage upon transfer to the Fleet Reserve. Subject divorced and the court ordered former spouse coverage, but the coverage category was not changed accordingly. Neither Subject nor former spouse remarried prior to Subject's death on 21 August 2017. In light of the court order and the Subject's continued payment of SBP premiums, the Board concludes that a measure of relief is warranted in this case.

RECOMMENDATION

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

The Subject changed his SBP 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 2 May 2016). This is in compliance with a court order. Any other election or declination executed by the Subject is null and void.

SBP premiums which would have been deducted from Subject's retired pay since his divorce will be deducted from beneficiaries' future benefits. No waiver of unpaid premiums will be granted.

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