



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

[REDACTED]
Docket No. 8207-17
OCT 31 2017

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

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

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

Encl: (1) DD Form 149 w/attachments
(2)
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject's daughter, Desiree R. Arriola, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to reflect that a claim for the Survivor Benefit Plan (SBP) annuity was filed within 6 years of the Subject's death.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 October 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 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 4 September 1988, Subject and [REDACTED] gave birth to [REDACTED]

c. On 3 December 1991, Subject fathers Petitioner [REDACTED]

d. Subject and [REDACTED] divorce on 1 July 1992.

e. On 9 September 1993, Subject married [REDACTED]

f. On 7 June 1994, Subject fathers [REDACTED]

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g. A physical evaluation board found Subject 100% disabled and transferred him to the Temporary Disability Retired List effective 19 February 2003.

h. Subject died on 22 March 2003.

i. On 2 April 2003, subject's widow signed a statement of understanding, declaring that she requests "child only" SBP coverage. Further, she acknowledged that the annuity was payable in equal shares to his eligible children. Note: Subject has three eligible children.

j. On 2 May 2003, the Secretary of the Navy (SECNAV) approved the "child only" SBP election for the Subject.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of SECNAV's approval of "child only" SBP coverage and the fact that Petitioner did not become aware of her right to a portion of the annuity until recently, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

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

Within six years of Subject's death (which occurred on 22 March 2003), Petitioner filed a claim for the SBP annuity.

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