



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

[REDACTED]
Docket No. 9195-17
JUL 02 2018

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USNR RET,
[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, 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 under the Survivor Benefit Plan (SBP) within one year of the marriage.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 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 6 April 1968, Petitioner married [REDACTED]

c. Petitioner received his Notification of Eligibility (NOE) to receive retired pay at age 60 and participate in the Reserve Component Survivor Benefit Plan (RCSBP) on or about 24 January 1995.

d. On 12 March 1995, Petitioner completed NRPC 1772/3 (Reserve Component Survivor Benefit Plan) electing Option A (I do not want to participate). Petitioner was married.

e. On 30 June 1995, Petitioner transferred to the Retired Reserve status.

f. On 18 March 1997, Petitioner divorced [REDACTED] The court did not order RCSBP former spouse coverage.

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g. On 29 February 2004, Petitioner turned 60 years old and retired with pay.

h. On 30 July 2016, Petitioner married [REDACTED]

i. On 8 August 2017, Petitioner completed a DD Form 2656-6 in an attempt to elect spouse coverage under the SBP. The election was rejected by the Defense Finance and Accounting Service (DFAS) because the election was not made within 1 year of the marriage.

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: Petitioner was married when he received notice that he became eligible to participate in the Reserve Component Survivor Benefit Plan (RCSBP); however, he elected not to participate. Petitioner claims that when he got married, he inquired with DFAS about the process to elect spouse coverage under the SBP. Based on the information he received from DFAS, it was the Petitioner's belief that an election of spouse coverage could not be made until after the 1 year anniversary of the marriage. Based on this information, Petitioner did not make an election of coverage until 8 August 2017. The Board concluded that Petitioner made a good faith attempt to elect spouse coverage under the SBP and that he should not be penalized for his misunderstanding of program requirements. As such, the Board felt that a measure of relief is warranted in this case.

RECOMMENDATION

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

The Petitioner elected SBP full spouse coverage, naming [REDACTED] within one year of the date of his marriage (which occurred on 30 July 2016). Note: Any other election or declination executed by Petitioner is null and void.

Note: Petitioner is responsible for unpaid SBP costs that would have been deducted beginning the first day of the thirteenth month following his marriage to [REDACTED]. No waiver of unpaid premiums will be granted.

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.

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[REDACTED]

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