



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

[REDACTED]
Docket No. 5602-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,
XXX-XX-[REDACTED] RET

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to establish participation in the Survivor Benefit Plan (SBP) Spouse coverage.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 13 March 2024 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, relevant portions of Petitioner'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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. On 30 May 1998, Petitioner married [REDACTED], and divorced on [REDACTED]. Judgement did not direct SBP Former Spouse coverage.

b. On [REDACTED], Petitioner married [REDACTED], and divorced on [REDACTED]. Decree of Divorce [REDACTED] did not direct SBP Former Spouse coverage.

c. On [REDACTED], Petitioner's child, [REDACTED] was born.

d. On [REDACTED], Petitioner married [REDACTED] and had two children:

[REDACTED] born on [REDACTED] and [REDACTED] born on [REDACTED].

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,
XXX-XX-[REDACTED] RET

e. On [REDACTED], Petitioner divorced [REDACTED]. Judgement of Divorce by Summary Judgement did not direct SBP Former Spouse coverage.

f. Petitioner transferred to the Fleet Reserve effective 1 March 2018 and automatically enrolled in SBP Children coverage as the Defense Finance and Accounting Service (DFAS) did not receive his DD Form 2656, Data for Payment of Retired Personnel.

g. On [REDACTED], Petitioner married [REDACTED].

h. On 20 February 2024, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to elect SBP Spouse only coverage at the full retired pay level of coverage.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect his desire to participate in SBP Spouse coverage but failed to correctly notify the DFAS of his current marriage within 1-year of nuptials in accordance with reference (b).¹ However, reference (b) does not authorize the discontinuance of SBP children coverage. Although Petitioner did not complete the proper administrative requirements, the Board determined that under this circumstance, partial relief is warranted.

RECOMMENDATION

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

Petitioner changed SBP election from "Children" to "Spouse and Children" coverage naming [REDACTED], [REDACTED], [REDACTED], and [REDACTED] as the beneficiaries, at the same level of coverage as previously elected within 1-year of marriage on 30 August 2019.

Note: No waiver of unpaid premiums will be granted.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied in accordance with reference (b).

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that a 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.

¹ Reference (b), any member who does not have an eligible beneficiary when becoming eligible to participate in the SBP, who later marries, may elect to participate in the SBP, if the election is completed within one year of acquiring a spouse. However, the member may not reduce the level of SBP coverage, nor may child coverage be eliminated. Additionally, SBP Children coverage generally continues until the youngest unmarried child turns age 18 or age 22 and pursuing a full-time course of study in a recognized educational institution.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,
XXX-XX- [REDACTED] RET

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

3/29/2024

