



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

■  
Docket No. 8993-23  
Ref: Signature Date

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

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

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

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 the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to establish Survivor Benefit Plan (SBP) Former Spouse coverage.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 June 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. In accordance with reference (b), a member with spouse coverage may, within 1-year of the date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse. Furthermore, if such member fails or refuses to make such election, the member is deemed to have made such election if the Secretary concerned receives a completed DD Form 2656-10, Survivor Benefit Plan (SBP) Former Spouse Request for Deemed Election, from a former spouse or the former spouse's attorney on behalf of the former spouse within 1-year of the date of the court order or filing involved.

b. On 23 March 1993, Petitioner entered active duty.

c. On 18 October 1993, Petitioner married [REDACTED] and had three children: [REDACTED] born on 21 February 1997; [REDACTED] born on 21 September 1998; and [REDACTED] born on 11 December 2000.

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d. On 19 February 2019, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel, electing SBP Spouse and Children coverage based on the full gross pay level of coverage.

e. On 20 May 2019, Petitioner and spouse entered into a Marital Settlement Agreement whereby Petitioner agreed to provide SBP Former Spouse coverage.

f. Petitioner transferred to the Retired List effective 1 March 2020 and SBP Spouse and Children premium deductions began.

g. On 23 March 2020, Petitioner's divorce is finalized with Final Order of Divorce indicating, "the Marital Settlement Agreement dated May 20, 2019, be and is hereby, ratified, affirmed and incorporated, but not merged herein and, the parties are ordered to comply with the terms of the Agreement therein."

h. On 4 June 2020, Petitioner signed and submitted an incomplete DD Form 2656-6, Survivor Benefit Plan Election Change Certificate to Defense Finance and Accounting Service (DFAS), requesting to change coverage based on divorce. DFAS suspended Petitioner's SBP coverage effective 1 July 2023.

i. On 10 July 2023, Petitioner signed Letter of Intent (LOI) to Enroll During the SBP Open Season form to establish SBP Former Spouse coverage with a reduced base amount of \$4,000. DFAS denied the request on 7 August 2023 because Petitioner was already enrolled in SBP and not authorized to change coverage during the SBP Open Season.

j. On 21 July 2023, Petitioner's former spouse signed DD Form 2656-10, Survivor Benefit Plan (SBP) Former Spouse Request for Deem Election. DFAS denied the request on 28 August 2023 because the form must be submitted with 1-year of the date the court entered the order requiring the election of SBP Former Spouse 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 change his election to SBP Former Spouse coverage and comply with the Final Order of Divorce. However, failed to submit the request within 1-year of divorce in accordance with reference (b), thereby rendering him ineligible to change the election. Although Petitioner did not complete the proper administrative requirements, the Board agreed that under this circumstance, relief is warranted.

## RECOMMENDATION

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

Petitioner changed SBP election from "Spouse and Children" to "Former Spouse" coverage naming [REDACTED] as the beneficiary within 1-year of divorce on 23 March 2020.

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Note: 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 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.

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.

6/25/2024

[REDACTED]

Deputy Director

Signed by: [REDACTED]