



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

█
Docket No. 9122-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, USN RET
XXX-XX-█ (DECEASED)

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's son, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his father's naval record be corrected to establish Survivor Benefit Plan (SBP) former spouse coverage for his mother.

2. The Board, consisting of █, █, and █ 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 Subject'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, 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 17 July 1982, Subject married █ and had two children: █
█ (Petitioner) born on 11 January 1984; and █ born on 24 November 1986.

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c. Subject transferred to the Fleet Reserve effective 1 August 1999 and automatically enrolled in SBP coverage because Defense Finance and Accounting Service did not receive DD Form 2656, Data for Payment of Retired Personnel.

d. On 30 December 1999, Subject divorced [REDACTED]. Subject and former spouse Agreement was read into their record and the Agreement was approved by the Court. The Agreement indicates, "Husband agrees to keep in full force and effect his present life insurance coverage on his life, which is available to him as the result of his military service. The Wife shall remain designated as the primary beneficiary of Husband's life insurance policy, with the children being the secondary beneficiaries."

e. On 19 October 2020, Subject passed away. At the time of death, Subject paid 255 months of SBP premium payments with [REDACTED] listed as the annuitant.

f. On 23 January 2021, Subject's former spouse signed DD Form 2656-7, Verification for Survivor Annuity. Defense Finance and Accounting Service denied the claim on 5 March 2021, due to Subject not changing his SBP election from spouse to former spouse coverage within 1-year from the date of divorce, nor did Petitioner deem an election with a copy of the divorce decree within 1-year from the date of divorce.

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 Subject's desire to elect SBP former spouse coverage. Although Subject did not complete the proper administrative requirements, the Board agreed that under this circumstance, relief is warranted.

RECOMMENDATION

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

Subject changed SBP election from "Spouse" to "Former Spouse" coverage naming [REDACTED] as the beneficiary, at the same level of coverage as previously elected within 1-year of divorce on 30 December 1999.

Note: This change will entitle Petitioner to SBP annuity requested on 23 January 2021. The Defense Finance and Accounting Service will complete an audit of Subject's pay records to determine [REDACTED] retroactive SBP annuity entitlement.

A copy of this Report of Proceedings will be filed in Subject'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.

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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]