



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

■
Docket No. 3464-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC (RETIRED/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 mother, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her son's naval record be corrected to establish Survivor Benefit Plan (SBP) former spouse coverage.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 31 July 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, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

- a. On 2 August 1988, Subject entered active duty.
- b. On 1 September 1997, Subject married [REDACTED].
- c. On 29 December 2009, Subject signed DD Form 2656, Data for Payment of Retired Personnel, electing SBP Spouse only coverage.
- d. Subject transferred to the Retired List effective 1 March 2010 and SBP Spouse only premium deductions began with [REDACTED] as the annuitant.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC (RETIRED/DECEASED)

e. On 25 February 2014, Subject and [REDACTED] signed Agreement and Stipulation whereby the Subject agreed to elect SBP Former Spouse coverage with [REDACTED] as the beneficiary.

f. On 9 March 2015, Subject divorced [REDACTED]. The 25 February 2014 Agreement was affirmed and ratified, and the terms thereof incorporated into the Final Decree of Divorce that included SBP Former Spouse coverage.

g. On 3 January 2019, Subject married [REDACTED].

h. On 23 September 2022, Subject issued notification from the Defense Finance and Accounting Service (DFAS) indicating, “[w]e are unable to process your Survivor Benefit Plan (SBP) because we are missing the following information. Please provide the information requested and return it in the enclosed envelope. Complete copy of FINAL divorce decree with judge’s signature and your divorce date.”

i. On 2 April 2023, Subject passed away.

j. On 18 April 2023, Subject’s former spouse submitted a DD Form 2656-7, Verification for Survivor Annuity. The DFAS denied the claim on 5 May 2023 due to Subject’s SBP coverage not being changed, nor deemed, within 1-year from the date of divorce.

k. On 31 May 2023, Subject’s former spouse submitted an appeal to the Defense Office on Hearings and Appeals (DOHA). On 23 June 2023, DOHA upheld the DFAS denial.

l. On 12 April 2024, Subject’s widow signed and Affidavit before a notary witness indicating, “I hereby relinquish and waive any and all claims, rights, and interests that I may have or may acquire in the future to the spousal/survivor military retirement derived from [Subject’s] SBP. I consent to the payment of the SBP annuity to [REDACTED] as the former spouse and designated beneficiary of [Subject].”

m. On 10 July 2024, Subject’s widow signed an Agreement before a notary witness indicating [REDACTED] agrees to release and relinquish to [REDACTED] any rights that she may have in and to the military survivor benefits derived through the service of [Subject].”

n. On 15 July 2024, Subject’s widow concurred Subject’s former spouse should receive SBP annuities.

o. On 25 July 2024, Subject’s former spouse, confirmed she never remarried after divorcing Subject.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting the following corrective action. The Board concluded Subject failed to elect SBP Former Spouse coverage as directed by Final Decree of Divorce and in accordance with

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC (RETIRED/DECEASED)

reference (b).¹ The record reflects sufficient documentation to reflect Subject's widow is Although, Subject did not complete the proper administrative requirements, the Board determined that under this circumstances, relief is warranted.

RECOMMENDATION

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

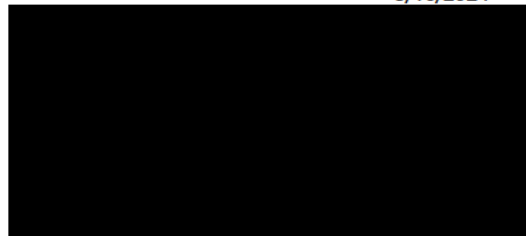
Subject changed SBP election from "Spouse only" to "Former Spouse" coverage naming [REDACTED] as the beneficiary, at the same level of coverage as previously elected within 1-year of divorce on 9 March 2015.

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.

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.

8/16/2024



¹ A member with spouse or spouse and child coverage may, within 1-year of the date of the divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. When a member elects former spouse coverage, the member and the former spouse must complete an election statement indicating whether the election is being made pursuant to the requirements of a court order or by a voluntary written agreement.