



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

[REDACTED]
Docket No. 7529-24
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] (DECEASED)

Ref: (a) Title 10 U.S.C. § 1552
(b) DoDFMR, Vol. 7B

Encl: (1) DD Form 149 w/attachments
(2) Subject's Naval record

1. Pursuant to the provisions of reference (a), Subject's daughter, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her father's naval record be corrected to establish Survivor Benefit Plan (SBP) Former Spouse coverage for [REDACTED].

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 8 January 2025 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, she 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 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. If the member fails 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 from the date of court order. A copy of the court order referring to the SBP coverage must accompany the DD Form 2656-10.

b. On 5 August 1963, Subject married [REDACTED] and had 3-children: [REDACTED]
[REDACTED] born on 10 September 1964; [REDACTED] born in 1966 and [REDACTED]
[REDACTED] (Petitioner) born in 1969.

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c. On 15 March 1973, Subject transferred to the Fleet Reserve. The Defense Finance and Accounting Service (DFAS) retired pay system indicates Subject elected SBP Spouse and Children coverage. On 1 July 1992, the system was updated to reflect Spouse only coverage.

d. On 27 August 1998, Subject divorced [REDACTED]. The Final Judgment of Dissolution of Marriage ordered the Subject to "elect and maintain a survivor annuity for the Wife's benefit with regard to his military pension plan. The Husband shall designate the Wife as beneficiary of the Plan within ten (10) days of entry of this judgment. The Husband shall continue said plan in effect and shall not remove the wife as beneficiary or designate any additional beneficiaries."

e. On 16 May 2008, the DFAS notified Subject that SBP premiums would terminate effective 1 October 2008 due to being at least 70 years old and having paid 360 months; annuity coverage would remain in effect with no further costs or action required.

f. On 28 March 2022, Subject passed away.

g. On 12 May 2022, Subject's former spouse signed DD Form 2656-7, Verification for Survivor Annuity.

h. On 22 June 2022, the DFAS denied the former spouse's claim for SBP annuity because the Subject did not make a request to change his election to Former Spouse coverage nor was a deemed election for Former spouse coverage made by [REDACTED] within 1-year of their divorce.

i. On 21 July 2022, [REDACTED] submitted a request for appeal regarding entitlement to SBP annuity to Defense Office of Hearings and Appeals (DOHA).

j. On 10 January 2023 and 10 May 2024, DOHA upheld the DFAS's denial of former spouse's annuity claim in full.

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 Judgment of Dissolution of Marriage and in accordance with reference (b). However, the Board surmised Subject more than likely believed that he maintained SBP Former Spouse coverage due to his continued SBP premium payments. Although, Subject did not complete the proper administrative requirements, the Board determined that under this circumstance, relief is warranted.

RECOMMENDATION

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

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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 27 August 1998.

Note: The DFAS will complete an audit of Subject's pay records to determine amounts due, if any.

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 titled 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.

1/16/2025

