



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

[REDACTED]
Docket No. 7538-24

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,
[REDACTED] (DECEASED)

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 31 U.S.C § 3702¹

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

1. Pursuant to the provisions of reference (a), Subject's widow, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her spouse's naval record be corrected to establish entitlement to Survivor Benefit Plan (SBP) annuity.

2. The Board, consisting of [REDACTED], [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, she exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. On 28 December 1958, Subject married [REDACTED] (Petitioner).

b. On 19 November 1976, Subject signed DD Form 1883, Survivor Benefit Plan Election Certificate and elected Spouse and Children coverage based on the full amount of retired pay.

c. Subject transferred to Permanent Disability Retired List effective 23 November 1976.

d. On 16 May 2008, Defense Finance and Accounting Service (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.

e. On 8 June 2011, Subject passed, and Petitioner notified the DFAS of Subject's passing on 14 June 2011.

¹ Claims involving uniformed service members' pay, allowances, travel, and transportation, payments for unused accrued leave, retired pay, and survivor benefits must be received within 6 years from the date it accrues. SBP annuity claims accrue upon the death of the retired member.

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f. On 2 January 2023, Petitioner signed DD Form 2656-7, Verification for Survivor Annuity; however, DFAS did not receive the form until 8 February 2023 and received Subject's death certificate on 10 February 2023.

g. On 9 March 2023, DFAS denied the entirety of Petitioner's claim for SBP annuity because the claim was received more than 6 years from Subject's death.

h. On 8 April 2023, Petitioner submitted a request for extension and appeal regarding entitlement to SBP annuity to the DFAS.

i. On 28 March 2024, Defense Office of Hearing and Appeals upheld DFAS's denial of Petitioner's annuity claim in full.

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 her desire to claim the annuities she was entitled to following the Subject's death. Although Petitioner 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:

Ms. [REDACTED] submitted DD Form 2656-7, Verification of Survivor Annuity to DFAS within 6 years of Subject's death on 8 June 2011.

Note: The DFAS will complete an audit of Subject's pay records to determine [REDACTED] 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.

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.

8/6/2024

[REDACTED]