



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

BAN

Docket No. NR:04239-13
7 August 2014

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

Subj: [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Office of Legal Counsel 5420 PERS-00J of 17 Jul 2014

1. Pursuant to the provisions of reference (a) Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show a timely written request for conversion from spouse to former spouse coverage under the Survivor Benefit Plan (SBP).

2. The Board, consisting of Messrs. Zs Salman, George and Ruskin, reviewed Petitioner's allegations of error and injustice on 4 August 2014 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, naval records, 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, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board

finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Subject's naval record be corrected, where appropriate, as follows:

a. Subject executed a written request to change his SBP coverage from spouse to former spouse SBP coverage, at the same level of coverage as previously elected, naming [REDACTED] as the sole beneficiary. The request was received by cognizant authority and became effective [REDACTED] the day following the date of divorce.

b. The request was in compliance with a court order.

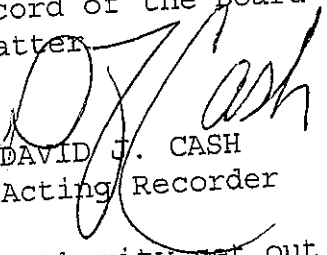
NOTE: SBP costs were deducted from Subject's retired pay, but refunded to Subject's current spouse after his death due to her receiving Dependent Indemnity Compensation (DIC) in lieu of SBP annuity. However, Petitioner [REDACTED] must repay all SBP premiums costs from her SBP annuity. No annuity will be paid to Petitioner until all unpaid costs have been reimbursed. No waiver of premiums is authorized.

c. Subject died on 9 February 2013.

d. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that 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.

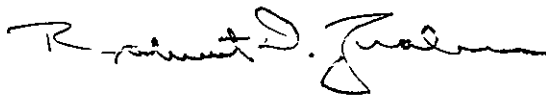
ROBERT D. ZSALMAN
Recorder


DAVID J. CASH
Acting Recorder

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

7 August 2014

A handwritten signature in black ink, appearing to read "Robert D. Zsalmán". The signature is written in a cursive style with a large, stylized initial "R".

ROBERT D. ZSALMAN
Acting Executive Director