



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

█
Docket No. 5702-20
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █
XXX XX █ USMC RET

Ref: (a) Title 10 U.S.C. § 1552
(b) DODFMR, Vol 7B, Chapter 43
(c) DD Form 2656

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

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her naval record be corrected to reflect declined participation in the Survivor Benefit Plan (SBP).

2. The Board, consisting of █ and █ reviewed Petitioner's allegations of error and injustice on 30 June 2021 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 Petitioner'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), SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. Reference (c), Section XII (SBP Spouse Concurrence) specifies "The date of the spouse's signature in item 32.b MUST NOT be before the date of the member's signature in item 30.b. above".

b. Petitioner married █ 22 May 1998 and divorced on 23 October 2001. Divorce decree does not direct SBP Former Spouse coverage.

c. Petitioner married █ on 8 December 2001 and divorced on 11 February 2011. Divorce decree does not direct SBP Former Spouse coverage.

d. Petitioner married █ on 6 December 2013.

e. On 30 June 2014, Petitioner's spouse signed DD Form 2656, Data for Payment of Retired Personnel before a notary witness "concurring with the SBP election" made by his spouse.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
XXX XX [REDACTED] USMC RET

f. On 1 July 2014, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel electing not to participate in SBP.

g. Petitioner transferred to the Fleet Marine Corps Reserve effective 1 September 2014 and was automatically enrolled in SBP Spouse coverage.

h. On 30 September 2018, Petitioner's spouse transferred to the Fleet Marine Corps Reserve.

i. On 18 June 2021, Petitioner and spouse signed SBP Affidavit before a notary witness, declining SBP coverage.

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 and spouse's desire to decline SBP coverage prior to transferring to the Fleet Marine Corps Reserve. Although Petitioner did not complete the proper administrative requirements, the Board felt that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner elected to decline participation in SBP with spouse concurrence prior to transferring to the Fleet Marine Corps Reserve effective 1 September 2014.

Note: Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine if premiums are to be refunded.

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-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.

7/30/2021

[REDACTED]
Deputy Director

Signed by: [REDACTED]