



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

■
Docket No. 5691-22
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 RET

Ref: (a) Title 10 U.S.C. § 1552
(b) DODFMR, Vol 7B, Chp 43

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 his naval record be corrected to reflect declining participation in the Survivor Benefit Plan (SBP).
2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 17 August 2022 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, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:
 - a. Petitioner's Armed Forces Active Duty Base date was 5 June 2017.
 - b. Petitioner married [REDACTED] on 31 August 2018.
 - c. Petitioner was placed on a Physical Evaluation Board on 29 June 2021.
 - d. On 4 March 2022, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel, electing to participate in SBP Spouse only coverage.
 - e. On 29 April 2022, Petitioner transferred to the Temporary Disability Retired List (TDRL) with 4 years, 10 months, and 25 days of total active service.
 - f. Petitioner became eligible for retired pay on 30 April 2022, and Defense Finance and Accounting Service (DFAS) began premium deductions for SBP Spouse only coverage.

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g. On 15 August 2022, Petitioner and spouse sign an SBP Affidavit before a notary witness requesting to decline SBP participation.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. Petitioner elected SBP Spouse only coverage in accordance with reference (b).¹ However, the Board felt that with less than 5-years of active duty service and placement on TDRL, Petitioner might not have received adequate counseling to understand the policies governing SBP or the monetary commitment of electing to participate in SBP Spouse only coverage. Therefore, under these circumstances, the Board felt relief was 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 TDRL effective 30 April 2022.

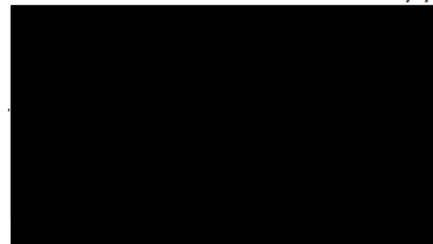
Note: DFAS will complete an audit of Petitioner's pay records to determine the amount of premium refund.

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.

9/2/2022

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¹ Reference (b), SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable.