



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

■
Docket No. 8289-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DOD 7000.14-R

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 [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 December 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. In accordance with reference (b), SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline is irrevocable. A member who is entitled to retired pay generally will be given automatic full coverage, unless the member elects to reduce coverage or declines participation, with proper concurrence of the eligible spouse, if applicable. Any change subsequent to retirement will be done through an administrative correction of records as permitted by law. However, members have the ability to discontinue SBP coverage within 25 to 36 months after receiving retired pay but no refund of any premiums properly collected will be made.

b. Petitioner married [REDACTED] on 21 September 1996.

c. Petitioner had two children: [REDACTED] born on 12 March 1998 and [REDACTED] born on 22 August 2001.

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[REDACTED]

d. On 27 December 2019, Petitioner signed a DD Form 2656-2, Survivor Benefit Plan (SBP) Termination Request, with spousal concurrence in an attempt to decline SBP coverage.

e. Petitioner transferred to the Fleet Reserve effective 1 July 2020 and was automatically enrolled in SBP Spouse and Children coverage; Defense Finance and Accounting Service (DFAS) did not receive a DD Form 2656, Data for Payment of Retired Personnel for Petitioner.

f. On 28 October 2022, Petitioner signed DD Form 2656-2 Survivor Benefit Plan (SBP) Termination Request with spousal concurrence to voluntarily terminate SBP coverage.

g. On 18 November 2022, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to decline SBP coverage.

h. Sometime in December 2022, DFAS terminated Petitioner's SBP participation effective 28 October 2022.

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 his and spouse's desire to decline SBP coverage prior to retiring from active duty. 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 properly elected to decline participation in SBP with spouse concurrence prior to transferring to the Fleet Reserve effective 1 July 2020.

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

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[REDACTED]

corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

12/12/2022

[REDACTED]

[REDACTED]

Deputy Director

[REDACTED]