



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

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Docket No. 8744-22
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, Chp 43
(c) DD Form 2565

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 4 January 2023 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. If not all requirements for an election needing the spouse's concurrence have been satisfied prior to retirement, for whatever reason, full spouse costs, and coverage will be implemented, regardless of any request by the member to do otherwise. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law.

b. Reference (c), stipulates "The date of the spouse's signature in Block 41c MUST NOT be before the date of the member's signature in Block 39c, or on or after the date of retirement listed in Part 1 Section I, Block 4."

c. Petitioner married ■■■■■■■■■■ on 12 July 2007.

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d. On 23 June 2021, Petitioner's spouse signed DD Form 2656, Data for Payment of Retired Personnel with a notary concurring with Petitioner's election to decline SBP participation.

e. On 24 June 2021, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel electing to decline SBP participation; Petitioner's Command sent the form to Defense Finance and Accounting Service (DFAS) for processing via the online customer service [REDACTED] [REDACTED] the same day.

f. Petitioner transferred to the Fleet Marine Corps Reserve effective 1 November 2021 and was automatically enrolled in SBP Spouse coverage

g. On 30 June 2022, Petitioner resends her original sent DD Form 2656, Data for Payment of Retired Personnel to DFAS with a letter reiterating her request to decline SBP participation.

h. On 19 October 2022, DFAS responded to Petitioner and specified the DD Form 2656, Data for Payment of Retired Personnel was invalid because spouse's concurrence was improperly dated. Additionally, the letter notified Petitioner that the election needed to be corrected prior to retirement or she would be automatically enrolled in SBP Spouse coverage.

i. On 20 December 2022, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to decline 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 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 elected to decline participation in SBP with spouse concurrence prior to transferring to the Fleet Marine Corps Reserve effective 1 November 2021.

Note: Defense Finance and Accounting Service 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.

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[REDACTED] XXX XX [REDACTED] USMC RET

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.

1/9/2023

