



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

■
Docket No. 9119-22
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
(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 [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 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."

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

c. Petitioner married her [REDACTED] on 23 May 2014 and divorced on 26 April 2017. Final Judgement and Decree did not direct SBP Former Spouse coverage.

d. Petitioner married [REDACTED] on 19 September 2017.

e. Petitioner's spouse signed DD Form 2656, Data for Payment of Retired Personnel with a notary to decline SBP coverage on 8 August 2019.

f. Petitioner signed DD Form 2656, Data for Payment of Retired Personnel to decline SBP coverage on 9 August 2019.

g. On 12 August 2019, Defense Finance and Accounting Service (DFAS) received Petitioner's DD Form 2656, Data for Payment of Retired Personnel; the form was deemed invalid because spouse signed prior to Petitioner.

h. Petitioner transferred to the Temporary Disability Retired List (TDRL) effective 31 August 2019 and was automatically enrolled in SBP Spouse coverage.

i. Petitioner divorced [REDACTED] on 30 September 2021. Final Decree did not direct SBP Former Spouse coverage.

j. Petitioner married [REDACTED] on 11 June 2022.

k. On 19 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 his desire to decline SBP coverage with spouse concurrence prior to her transfer to the TDRL. Although the proper administrative requirements were not completed, 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 TDRL effective 31 August 2019.

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.

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

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.

1/13/2023

[REDACTED]

Deputy Director

[REDACTED]