



**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. 1048-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ■■■■■■■■■■  
XXX-XX-■■■■ USN (RET)

Ref: (a) 10 U.S.C. § 1552  
(b) DOD 7000.15-R, Chapter 43

Encl: (1) DD Form 149 w/attachments  
(2) DEERS Screen  
(3) DD Form 214, 27 Sep 22  
(4) HUNT Screens  
(5) DD Form 2656, 21 Sep 22  
(6) SBP Open Season Election to Discontinue Participation, 2 Mar 23

1. Pursuant to the provisions of reference (a), the Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that Petitioner's naval record be corrected to show Petitioner declined coverage under the Survivor Benefit Plan (SBP) prior to becoming eligible to receive retired/retainer pay.

2. The Board reviewed Petitioner's allegations of error and injustice on 10 May 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 enclosures (1) through (6), relevant portions of Petitioner's naval records, 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 married ■■■■■■■■■■ on 5 January 2015. Enclosure (2).

b. Petitioner transferred to the Fleet Reserve on 31 August 2022. Enclosure (3).

c. On 1 September 2022, Petitioner became eligible for retired pay and the Defense Finance and Accounting Service (DFAS) automatically enrolled Petitioner in Spouse Only. Enclosure (4).

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d. On 15 December 2022, DFAS received DD Form 2656, Data for Payment of Retired Personnel indicating Petitioner declined to participated in the SBP on 21 September 2022; notarized spousal concurrence the same day. Enclosure (5).

e. On 8 February 2023, Petitioner petitioned the Board to change his record to show he properly declined SBP coverage. Enclosure (1).

f. On 2 March 2023, Petitioner and spouse signed Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Season Election to Discontinue Participation before a notary witness. Enclosure (6).

g. On 1 April 2023, Petitioner's participation in SBP coverage discontinued. Enclosure (4).

### MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Majority concluded the Petitioner's request warrants favorable corrective action. In this regard, the Majority considered Petitioner's claim of his spouse being out of the country and unable to sign the DD Form 2656 prior to his transfer to the Fleet Reserve. Additionally, the Majority noted that Petitioner made several timely attempts to terminate SBP coverage to include receiving spousal concurrence to decline coverage and immediately participating in the 2023 Open Season to discontinue coverage. Although Petitioner did not complete the proper administrative requirements, the Board Majority agreed that under these circumstances, relief is warranted.

### MAJORITY RECOMMENDATION

In view of the foregoing, the Board Majority recommends the following corrective action:

Petitioner elected to decline participation in SBP with spouse concurrence prior to transferring to the Fleet Reserve effective 1 September 2022.

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

That a copy of this report of proceedings be filed in Petitioner's naval record.

### MINORITY CONCLUSION

Upon review and consideration of all the evidence of record and applicable reference, the Board Minority concluded that Petitioner's automatic SBP enrollment was in accordance with reference (b)<sup>1</sup> and noted that Petitioner was able to discontinue his SBP participation as prescribed by law. Therefore, an error or injustice was not found and relief is not warranted.

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<sup>1</sup> 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

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MINORITY RECOMMENDATION

In view of the foregoing, the Board Minority recommends that no corrective action be taken on Petitioner's naval record.

That a copy of this record of proceedings 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. The foregoing action of the Board is submitted for your review and action.

5/19/2023

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Majority Recommendation (Grant Relief)

Reviewed and Approved Board Minority Recommendation (Deny Relief)

5/19/2023

[REDACTED]

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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.