



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

█
Docket No. 3815-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, USN 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 he properly declined Survivor Benefit Plan (SBP), with proper spousal concurrence, and submitted to the Defense Finance and Accounting Service (DFAS) prior to becoming eligible for retired pay.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 18 October 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, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

- a. On 15 March 2004, Petitioner married █ and divorced on 9 November 2006.
- b. On 8 April 2010, Petitioner married █ and has two children; █ born in April 2014 and █ born in October 2016.
- c. On 20 April 2021, Petitioner and █ entered into a Separation Agreement to which there was no agreement to provide SBP Former Spouse coverage.
- d. On 10 May 2022, Petitioner signed a DD Form 2656, Data for Payment of Retired Personnel, electing to decline participation in SBP with proper spousal concurrence.
- e. On 31 May 2022, Petitioner divorced █; Final Order for divorce did not direct SBP Former Spouse coverage.

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[REDACTED]

f. Petitioner transferred to the Retired List effective 1 September 2022, automatically enrolled in SBP Spouse only coverage and premium deductions began.

g. On 3 September 2022, Petitioner married [REDACTED].

h. On 18 July 2023, DFAS confirmed they had not received Petitioner's DD Form 2656, Data for Payment of Retired Personnel; therefore, automatically enrolled in SBP Spouse only coverage.

i. On 6 October 2023, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to decline participation in SBP.

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 and was not directed by either divorce to provide SBP Former Spouse coverage. Although the proper administrative requirements were not completed, the Board determined relief is warranted.

RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner elected to declined participation in SBP coverage prior to transferring to the Retired List effective 1 September 2022.

Note: The 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.

10/27/2023

