



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

█
Docket No. 4306-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD █
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Ref: (a) Title 10 U.S.C. § 1552
(b) DODFMR, Vol 7B, Chp 43¹
(c) DD Form 2656²

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 declined participation in the Survivor Benefit Plan (SBP).

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 24 January 2024 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. Petitioner was married to █ from 9 March 2004 to 8 December 2006. Judgement Entry for Divorce did not direct SBP Former Spouse coverage.

b. On 6 September 2008, Petitioner married █.

¹ 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.

² Reference (c), stipulates "The date of the spouse's signature in Block 43c MUST NOT be before the date of the member's signature in Block 41c, or on or after the date of retirement listed in Part 1 Section I, Block 4."

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[REDACTED]

c. On 6 September 2022, Petitioner's spouse signed DD Form 2656, Data for Payment of Retired Personnel before a notary witness concurring with spouse's SBP election.

d. On 7 September 2023, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel, electing to not participate in SBP coverage.

e. Petitioner transferred to the Fleet Reserve effective 1 March 2023 and automatically enrolled in SBP Spouse only coverage as a result of spouse signing DD Form 2656, Data for Payment of Retired Personnel before Petitioner.

f. On 9 March 2023, Petitioner signed DD Form 2656-6, SBP Election Change Certificate. On 15 April 2023, Defense Finance and Accounting Service (DFAS) notified Petitioner "We have received your recent correspondence but cannot take action at this time because additional information is needed. Other: your spouse signed before you did on your original DD2656. This means that you cannot take her off until your 25th through 36th month of retirement."

g. On 15 April 2023, Petitioner signed SBP and Reserve Component SBP (RCSBP) Open Season Election to Discontinue Participation during the 2023 SBP Open Season. On 13 May 2023, DFAS notified Petitioner "We received your request to discontinue from the SBP coverage during the SBP Open Season, we have found that you are not eligible to discontinue for the following reason: You were not enrolled in the SBP as of December 22, 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 transferring to the Fleet Reserve. Although Petitioner did not complete the proper administrative requirements, the Board determined 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 proper spouse concurrence prior to transferring to the Fleet Reserve effective 1 March 2023.

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.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the

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[REDACTED]

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.

27/2024

