



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

■
Docket No. 5156-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USNR,
XXX-XX [REDACTED] RET

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R
(c) PL 117-263 § 643

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 Reserve Component Survivor Benefit Plan (RCSBP) and Survivor Benefit Plan (SBP).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 February 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. In accordance with reference (b), any member who is notified of their completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in the RCSBP before the end of the 90-day period. A member who is married or has a dependent child, and who receives notice of eligibility for retired pay, after January 1, 2001, is automatically an immediate participant in RCSBP unless the member elects (with spousal concurrence, if required) not to participate or to defer the decision or delay coverage before the end of the 90-day period. RCSBP coverage for the member's survivors commences but premiums are not paid until the member first becomes actually entitled to retired pay. RCSBP premium deductions are for the coverage provided while the member awaited the requisite age of entitlement to retired pay. RCSBP premiums are distinct from the SBP premiums.

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b. Pursuant to reference (c), a person participating in the SBP on the day before the first day of the open season may elect to discontinue such participation during the open season. The open season described in this subsection is the period beginning on the date of the enactment of this Act and ending on 1 January 2024. Reference (d) was enacted on 23 December 2022.

c. On 18 June 1988, Petitioner married [REDACTED].

d. On 11 August 2015, Petitioner earned 20 years of qualifying service for non-regular retirement. Petitioner issued Notification of Eligibility to Receive Retired Pay at Age 60 and Participate in the RCSBP on 17 August 2016.

e. On 15 November 2016, Navy Personnel Command (PERS-912) did not receive an election from Petitioner to decline participation with spouse concurrence; therefore, was automatically enrolled in RCSBP Spouse coverage.

f. On 6 February 2021, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel indicating he previously declined RCSBP coverage and elected to decline participation in SBP coverage. Petitioner's spouse concurred with declining participation on 24 March 2021.

g. On 1 April 2021, Petitioner transferred to the Retired Reserve without pay.

h. On 14 July 2021, Petitioner signed DD Form 108, Application for Retired Pay Benefits and transferred to the Retired Reserve with pay.

i. On 15 February 2023, Petitioner signed the SBP and RCSBP Open Season Election to Discontinue Participation form with spouse concurrence. On 21 March 2023, Defense Finance and Accounting Service (DFAS) approved Petitioner's request to discontinue SBP coverage, however indicated "By law we must continue deducting the RC [Reserve Component] cost for the RCSBP coverage you received prior to attaining age 60. In the case of spouse coverage, we must deduct the RC cost until your retired pay have been reduced for a total of 360 months, or until the death of the beneficiary of your RCSBP."

j. On 15 February 2024, 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 and spouse's desire to decline RCSBP and SBP coverages. Although Petitioner did not complete the proper administrative requirements, the Board agreed that under these circumstances, relief is warranted.

RECOMMENDATION

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

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Petitioner elected to decline participation in RCSBP with spouse concurrence prior to transferring to the Retired Reserve without pay effective 1 April 2021.

Petitioner elected to decline participation in SBP with spouse concurrence prior to transferring to the Retired Reserve with pay effective 14 July 2021.

Note: DFAS will complete an audit of Petitioner's pay records to determine Petitioner's pay entitlements.

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.

3/6/2024

