



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

■
Docket No. 7004-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,
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
(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 Survivor Benefit Plan (SBP).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 31 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. 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. 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 (c) was enacted on 23 December 2022.

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

- c. On 16 October 1990, Petitioner's child, [REDACTED] was born.
- d. Petitioner transferred to the Fleet Reserve effective 1 October 2004 and automatically enrolled in SBP Spouse only coverage as a result Defense Finance and Accounting Service (DFAS) not receiving DD Form 2656, Data for Payment of Retired Personnel.
- e. On 18 January 2012, Petitioner signed DD Form 2656-6, SBP Election Change Certificate, requesting to suspend SBP Spouse only coverage, however he did not elect a reason for the change request.
- f. On 16 October 2012, Petitioner's child reached 22 years of age and was no longer an eligible SBP beneficiary if elected.
- g. On 23 August 2023, Petitioner signed the SBP and Reserve Component SBP Open Season Election to Discontinue Participation form.
- h. On 19 October 2023, Petitioner signed DD Form 2656-8, SBP – Automatic Coverage Fact Sheet, indicating he was not and never has been married and had no dependent children.
- i. On 7 November 2023, DFAS notified Petitioner, "Your request was not valid: Please complete the DD Form 2656-8 so that your request may be made. Our system show you have a dependent that was of age at retirement."
- j. On 7 December 2023, Petitioner signed another DD Form 2656-8, indicating he had no spouse, and listed his only child.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. Petitioner's record and contentions indicate he was never married, therefore the Board concluded he was erroneously enrolled in SBP Spouse only coverage. Although Petitioner did not complete the proper administrative requirements by not completing a DD Form 2656, Data for Payment of Retired Personnel prior to retirement, the Board determined that under this circumstance, relief is warranted.

RECOMMENDATION

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

Petitioner elected to decline participation in SBP prior to transferring to the Fleet Reserve effective 1 October 2004.

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.

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

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.

2/13/2024

