

DEPARTMENT OF THE NAVY

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

> Docket No. 5497-17 DEC 1 3 2017

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO

JSMC RET

Ref:

(a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments

(2) HQMC memo 1741 MMSR-6K dtd 25 Apr 11

(3) Subject's naval record

- 1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show the Petitioner declined enrollment in the Survivor Benefit Plan (SBP).
- 2. The Board, consisting of reviewed Petitioner's allegations of error and injustice on 12 October 2017 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 your application, together with all material submitted in support thereof, relevant portions of your 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, finds as follows:
- a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
- b. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.
- c. On 31 January 2009, Petitioner transferred to Fleet Marine Corps Reserve and was automatically enrolled in full "spouse" SBP coverage.
- d. On 19 January 2011, Petitioner filed an application with the Board for Correction of Naval Records (BCNR) requesting that his record be changed to reflect that he declined enrollment in the SBP. Per enclosure (2), Headquarters, United States Marine Corps (HQMC) informed the BCNR that the record could be changed administratively upon receipt of spouse concurrence to decline SBP coverage, which was received on 31 May 2011.

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CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

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

Prior to his 31 January 2009 transfer to the Fleet Marine Corps Reserve, Petitioner declined enrollment in SBP with spouse concurrence. Any other election or declination executed by Petitioner is null and void.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that 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.

Recorder.

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

Executive Director