



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

█
Docket No. 7711-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █
XXX XX █ USMC RET

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R

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 Survivor Benefit Plan (SBP).

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 27 March 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. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law.

b. On 2 March 1998, Petitioner entered active duty.

c. On 19 November 2003, Petitioner married █ and divorced on 11 January 2006. Judgement did not direct SBP Former Spouse coverage.

d. On 14 September 2011, Petitioner married █ and divorced on 18 December 2013. Final Decree of Divorce did not direct SBP Former Spouse coverage.

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e. Petitioner transferred to the Fleet Marine Corps Reserve effective 1 April 2018 and automatically enrolled in SBP Spouse coverage because Defense Finance and Accounting Service did not receive a DD Form 2656, Data for Payment of Retired Personnel prior to the effective date of retirement.

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 was twice married and divorced prior to retirement and the court did not award SBP Former Spouse coverage to either. The Board surmised Petitioner did not receive adequate counseling on the requirements to complete DD Form 2656, Data for Payment of Retired Personnel prior to retirement, resulting in being automatically enrolled in SBP coverage. Therefore, 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 Marine Corps Reserve effective 1 April 2018.

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 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.

4/15/2024

[REDACTED]

Deputy Director

Signed by: [REDACTED]