

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 10339-23 Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO, USN RET,

XXX-XX-

Ref: (a) Title 10 U.S.C. § 1552

(b) DoD 7000.14-R<sup>1</sup>

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 17 July 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. On 15 August 2013, Petitioner entered active duty.
- b. On 13 July 2023, Petitioner was found unfit by the Physical Evaluation Board and recommended to be placed on the Temporary Disability Retired List (TDRL).
- c. On 8 August 2023, Petitioner signed DD Form 2656, Data for Payment for Retired Personnel, electing Naturally Interested Person (NIP), naming his mother, as the annuitant.

<sup>1</sup> A member who was participating in SBP with coverage for a natural person with an insurable interest (not a former spouse) may voluntarily terminate their participation in SBP by submitting a request to the DFAS. The request, signed by the member, must identify the member and state the member wants to terminate SBP participation. A request for information is not a request to terminate SBP participation. Additionally, no premiums are refunded as a result of terminating coverage.

- d. Petitioner transferred to the TDRL effective 23 September 2023 and SBP NIP premium deductions began.
  - e. On 26 October 2023, Petitioner issued disability rating of 100%.

## 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 elected SBP NIP coverage for his mother and the Board surmise he most likely did not understand the cost associated with this election. Additionally, Petitioner's record reflects his disability award from the Department of Veterans Affairs was more than his retired pay, therefore does not receive a retired check from the Defense Finance and Accounting Service (DFAS) for the premiums to be deducted and is separately billed for the SBP costs. However, Petitioner could have terminated this coverage at any point due to the election for a NIP but did not submit such a termination request. Under these circumstances, the Board determined that partial relief is warranted.

## RECOMMENDATION

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

Petitioner submitted request to terminate SBP NIP coverage for 22 November 2023.

Note: The DFAS will complete an audit of Petitioner's pay records to determine amounts due, if any.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied. The Board found that Petitioner did not provide sufficient evidence to reflect his attempt to take corrective action before submitting his application on 22 November 2023.

That 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 titled 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.

