

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 82-24 Ref: Signature Date

From: To:	Chairman, Board for Correction of Naval Records 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> (c) DD Form 2656 <sup>2</sup>
Encl:	<ul><li>(1) DD Form 149 w/attachments</li><li>(2) Subject's naval record</li></ul>
enclos	suant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed ure (1) with the Board for Correction of Naval Records (Board), requesting that her naval be corrected to reflect declined participation in the Survivor Benefit Plan (SBP).
allegat the cor Docun	Board, consisting of reviewed Petitioner's ions of error and injustice on 21 August 2024 and pursuant to its regulations, determined that rective action indicated below should be taken on the available evidence of record. The nentary material considered by the Board consisted of the enclosures, relevant portions of the ner's naval record, and applicable statutes, regulations, and policies.
and inj availab	Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error ustice, found that, before applying to this Board, she exhausted all administrative remedies ble under existing law and regulations within the Department of the Navy. The Board made lowing findings:
a.	On 12 June 2013, Petitioner entered active duty.
	On 6 November 2016, Petitioner married and divorced on 12 017. Default Judgement of Divorce did not direct SBP Former Spouse coverage.
	On 17 April 2018, Petitioner married and divorced on 13 January 2020 Decree for Dissolution of marriage did not direct SBP Former Spouse coverage.
d. (	On 17 October 2020, Petitioner married
1 app :	

<sup>&</sup>lt;sup>1</sup> 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.

<sup>&</sup>lt;sup>2</sup> Stipulates the date of the spouse's signature must not be before the date of the member's signature, or on or after the date of retirement listed in Part I, Section I, Item 4. Additionally, the spouse's signature must be notarized.

- e. On 23 May 2023, Petitioner's spouse signed DD Form 2656, Data for Payment of Retired Personnel concurring with spouse's SBP election but the signature was not notarized and Petitioner did not sign the form until 3 June 2023.
- f. Petitioner transferred to the Temporary Disability Retired List (TDRL) effective 17 July 2023 and automatically enrolled in SBP Spouse coverage enrolled in SBP Spouse coverage as a result of spouse signing DD Form 2656, Data for Payment of Retired Personnel before Petitioner.
- g. On 14 August 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 error warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect her and spouse's desire to decline SBP coverage prior to transferring to the TDRL. Although the proper administrative requirements were not completed, 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 with proper spouse concurrence prior to transferring to the TDRL effective 17 July 2023.

Note: The Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine amounts due, if any.

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.

