



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

■
Docket No. 107-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R
(c) PL 117-263 § 643

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 her naval record be corrected to reflect declined participation in the Survivor Benefit Plan (SBP).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 August 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, she exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

- a. On 17 May 2014, Petitioner accepted a regular commission and entered active duty.
- b. On 14 March 2020, Petitioner married Brendan C. Borrell.
- c. On 23 August 2023, Petitioner issued BUPERS Order: [REDACTED] (Official Retirement Orders) with transfer to the Permanent Disability Retired List (PDRL) effective 30 September 2023.
- d. On 18 September 2023, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel, electing SBP Spouse only coverage at the full gross pay level of coverage.
- e. Petitioner transferred to the PDRL effective 30 September 2023 and SBP Spouse premium deductions began.
- f. On 21 December 2023, Petitioner signed the Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Season Election to Discontinue Participation form with notarized spouse concurrence.

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g. On 6 August 2024, Petitioner and her spouse both signed an affidavit before a notary witness indicating that they desired Petitioner's SBP election to be changed to reflect that she declined SBP coverage. Petitioner indicated that she "received insufficient SBP information/counseling prior to [her] 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 enrolled in SBP Spouse coverage as requested but was not authorized to discontinue coverage during the 2023 Open Season because she was not participating in SBP coverage on 22 December 2022 in accordance with reference (c).¹ However, the Board determined that had Petitioner received adequate counseling regarding not receiving retired pay due to her Veterans Affairs disability compensation award, she would have elected not to participate in SBP coverage. Therefore, the Board determined that under these circumstances, 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 spousal concurrence prior to transferring to the PDRL effective 30 September 2023.

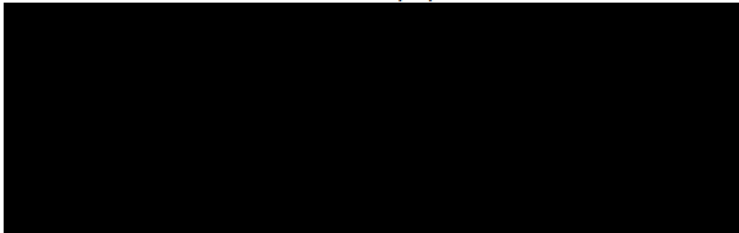
Note: The Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine amounts due, if any.

That a copy of this report of proceedings 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.

8/28/2024



¹ 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.