



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

■
Docket No. 269-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC (RET)

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R
(c) DD Form 2656

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 the Survivor Benefit Plan (SBP).

2. The Board, consisting of [REDACTED], and [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, 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 12 April 2010, Petitioner married [REDACTED] and acquired 2-stepchildren, [REDACTED] born [REDACTED] and [REDACTED] born [REDACTED].

b. On 28 July 2010, Petitioner issued orders for Retirement by Reason of Permanent Physical Disability, effective 31 August 2010.

c. On 5 August 2010, Petitioner's spouse signed DD Form 2656, Data for Payment of Retired Personnel before a notary witness concurring with spouse's SBP election. However, Petitioner had not signed the form. This form was uploaded into Petitioner's official military personnel file without his or witness signatures and dates.

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d. Petitioner transferred to the Permanent Disability Retired List (PDRL) effective 31 August 2010 and automatically enrolled in SBP Spouse and Child coverage as a result of spouse signing DD Form 2656, Data for Payment of Retired Personnel before Petitioner.

e. On [REDACTED], Petitioner's child, [REDACTED] was born.

f. On 19 December 2013, Petitioner divorced [REDACTED]. Notice of Entry of Judgement did not direct SBP Former spouse coverage.

g. On 28 June 2016, Petitioner signed DD Form 2656-6, Survivor Benefit Plan Election Change Certificate requesting to suspend coverage. On 23 August 2017, the Defense Finance and Accounting Service (DFAS) denied processing the request because a copy of the final divorce decree was not provided.

h. On 3 May 2018, Petitioner signed and submitted a new DD Form 2656, Data for Payment of Retired Personnel declining to participate in SBP with a copy of his divorce decree. On 14 June 2018, the DFAS denied processing the request indicating, "[t]he original DD2656 you provided declining SBP was invalid because you did not sign the form resulting in Auto Spouse and child 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 his and spouse's desire to decline SBP coverage prior to transferring to the PDRL. 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 coverage with proper spouse concurrence prior to transferring to the PDRL effective 31 August 2010.

Note: The DFAS 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

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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

