



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

[REDACTED]
Docket No. 2080-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R
(c) OASD Memorandum "Implementing and Procedural Guidance for Section 643 of PL 117-263, December 23, 2022, Survivor Benefit Plan Open Season"

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], [REDACTED], [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 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. 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. 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.

b. Pursuant to reference (c), 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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET,
[REDACTED]

Act and ending on 1 January 2024. Reference (c) was enacted on 23 December 2022. However, previously paid premiums will not be refunded.

c. On 11 October 1979, Petitioner married [REDACTED] and had 3 children; [REDACTED] born [REDACTED]; [REDACTED] born [REDACTED] and [REDACTED] born [REDACTED].

d. On 28 September 1995, Petitioner signed NAVCOMPT Form 2272, Navy Retired/Retainer Pay Data Form. Although Petitioner failed to make an SBP beneficiary election in blocks 18 through 14, he did select Block 25, "I elect coverage to be based on full gross pay."

e. On 27 September 1995, Petitioner's spouse signed NAVCOMPT Form 2272, Navy Retired/Retainer Pay Data Form Part VIII – Survivor Benefit Spousal Concurrence that indicates the signature is "Required when member is married and does not elect full coverage."

f. Petitioner transferred to Fleet Reserve effective 1 November 1995 and automatically enrolled in SBP Spouse and Child coverage because his NAVCOMPT Form 2272, Navy Retired/Retainer Pay Data Form was incomplete.

g. On 6 March 2023, Defense Finance and Accounting Service (DFAS) notified Petitioner of debt resulting from adjustment made in SBP portion of his retired pay account. The notification indicated, "[p]rior to your adjustment you were being charged an SBP payment in the amount of \$0.00; with the adjustment your payment has increased from \$0.00 to \$124.55 effective your check dated April 1, 2023."

h. On 28 April 2023, Petitioner signed Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Season Election to Discontinue Participation form with spouse concurrence; DFAS discontinued coverage effective 2 May 2023.

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 Fleet Reserve. Although Petitioner did not complete the proper administrative requirements, 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 Fleet Reserve effective 1 November 1995.

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET,
[REDACTED]

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.

9/3/2024

