



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

[REDACTED]
Docket No. 4660-24
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,
XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DoDFMR, Vol 7B
(c) OASD Memorandum "Implementing and Procedural Guidance for Section 643 of PL 117-263, December 23, 2022, Survivor Benefit Plan Open Season"
(d) 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], [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 18 September 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 December 1998, Petitioner married [REDACTED] and divorced on 22 June 2000. Judgement of Divorce did not order SBP Former spouse coverage.

b. On 14 January 2006, Petitioner married [REDACTED].

c. On 3 April 2023, Petitioner's spouse signed DD Form 2656, Data for Payment of Retired Personnel concurring with Petitioner's SBP election; however, spouse's signature was not notarized until 3 May 2023 and Petitioner did not make an election to decline participation and sign the form until 10 May 2023.

d. Petitioner transferred to the Retired List effective 1 December 2023 and SBP Spouse

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premium deductions began as a result of spouse's signature not being properly notarized and spouse signing DD Form 2656, Data for Payment of Retired Personnel before Petitioner.

e. On 28 December 2023, Petitioner signed Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Season Election to Discontinue Participation with spouse's notarized concurrence and submitted to the Defense Finance and Accounting Service (DFAS) for processing; the DFAS denied the request on 11 January 2024, due to Petitioner not being enrolled in SBP as of 22 December 2022.

f. On 12 September 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 his and spouse's desire to decline SBP coverage before transferring to the Retired List. 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 Retired List effective 1 December 2023.

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

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.

9/30/2024

