



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

█  
Docket No. 5975-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, USN RET,  
█

Ref: (a) 10 U.S.C. § 1552  
(b) DoD 7000.14-R, Financial Management Regulation, Volume 7B, (Retired Pay), Chapter 43 (Survivor Benefit Plan (SBP) – Elections and Election Changes), April 2019<sup>1</sup>

Encl: (1) DD Form 149  
(2) Defense Enrollment Eligibility Reporting System (DEERS) Screens  
(3) DD Form 214, Certificate of Release or Discharge from Active Duty, 6 May 21  
(4) HUNT Survivor Benefit Plan Information Screen  
(5) SBP and Reserve Component Survivor Benefit Plan Open Season Election to Discontinue Participation, signed and notarized 14 Feb 23  
(6) Defense Finance and Accounting Service (DFAS) Letter, 25 Feb 23  
(7) DD Form 2656-8, SBP – Automatic Coverage Fact Sheet, 10 Mar 23  
(8) SBP Affidavit, signed and notarized 29 Jan 24  
(9) Board for Correction of Naval Records Decision, IJP, Docket No.7490-23, 30 Apr 24

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, hereinafter referred to as the Board, requesting reconsideration that his naval record be corrected to reflect that he declined participation in the SBP.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 26 June 2024 and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record.

---

<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. Spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available. 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. However, service members are authorized to discontinue SBP coverage with spousal concurrence by submitting DD Form 2656-2, SBP Termination Request to the DFAS, within 25 to 36 months after receiving retired pay.

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

Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies.

3. Having reviewed all the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations with the Department of Navy.

b. On 14 August 1993, Petitioner was married to his current spouse and has two adult children. Enclosure (2).

c. On 30 April 2021, Petitioner was honorably discharged due to his failure of selection for promotion to commander. He was transferred to the Retired List effective 1 May 2021 with more than 26 years of creditable active service. Enclosure (3).

d. Upon his retirement, Petitioner was automatically enrolled in the SBP with full spousal coverage because the DFAS did not receive a DD Form 2656 from him electing to decline such coverage. This resulted in a monthly premium of \$405.36 being automatically withdrawn from his retirement pay. Enclosure (4).

e. On 14 February 2023, Petitioner, and his spouse both signed the SBP and Reserve Component SBP Open Season Election to Discontinue Participation Form. Enclosure (5).

f. By letter dated 25 February 2023, the DFAS informed Petitioner that his request to discontinue participation in the SBP was incomplete due to the automatic nature of his SBP enrollment. He was instructed to complete and return a DD Form 2656-8 SBP – Automatic Coverage Fact Sheet for auditing and processing; Petitioner signed and submitted the form to the DFAS on 10 March 2023. Enclosures (6) and (7).

g. On 29 January 2024, Petitioner and his spouse both signed an affidavit indicating that they desired Petitioner's SBP election to be changed to reflect that he declined SBP coverage. Petitioner indicated that he "received insufficient SBP information/counseling prior to [his] date of retirement." Enclosure (8).

h. On 30 April 2024, the Assistant General Counsel for the Assistant Secretary of the Navy, Manpower and Reserve Affairs concurred with the minority recommendation<sup>2</sup> for the 20 March 2024 split decision on Petitioner's request to correct his naval record to reflect that he declined participation in SBP. Enclosure (9).

---

<sup>2</sup> The minority concluded, "[w]hile the minority found no injustice in Petitioner's automatic enrollment in the SBP under the circumstances, it did note that Petitioner's window to discontinue his participation remains open through the month of April 2024. As such, Petitioner can and should avail himself of the opportunity to decline further coverage before that window closes if he has not done so already."

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

## CONCLUSION

Upon careful review and consideration of all the evidence of record, the Board found sufficient evidence of an injustice warranting corrective action.

The Board found that the final decision to approve the minority recommendation, enclosure (9), did not afford the Petitioner the opportunity to discontinue his participation because his withdraw window closed on 30 April 2024, which was the same date the final decision was made to deny Petitioner's request. Thereby inadvertently creating an injustice, as Petitioner could no longer voluntarily withdraw from SBP due to being outside of the prescribed window. Therefore, the Board determined that under this circumstance, relief is warranted.

## RECOMMENDATION

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record:

That Petitioner's naval record be corrected to reflect that he properly declined participation in the SBP with his spouse's signed and notarized concurrence prior to his transfer to the Retired List effective 1 May 2021.

Upon completion of this corrective action, a copy of the corrected records and this decision will be forwarded to the DFAS to conduct an audit of Petitioner's finance records to determine what, if any, payments may be due to Petitioner as a result of this action.

That a copy of this record 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.

7/20/2024

