



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

██████████
Docket No. 6079-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████
██████████

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"

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 cancelled participation in the 2023 Survivor Benefit Plan (SBP) Open Season Enrollment.

2. The Board, consisting of ██████████ reviewed Petitioner's allegations of error and injustice on 16 October 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), there are no regular recurring open season periods. Open seasons must be specifically prescribed by law. The most recent SBP open season, which was authorized by reference (b), began 23 December 2022, and ended 1 January 2024, allowing eligible members to participate or discontinue participation. The SBP Open Season allows for eligible members who, on 22 December 2022, are not currently in SBP or RCSBP to enroll. For a member who enrolls during the SBP Open Season, the law generally requires that the member will be responsible to pay retroactive SBP premium costs that would have been paid if the member had enrolled at retirement (or enrolled at another earlier date, depending on the member's family circumstances). Reference (c) specified members who elected to participate in an open enrollment had the ability to cancel within 30 days of making the election.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]

b. On 7 July 1984, Petitioner married [REDACTED] and divorced on 30 September 2002. Decree Granting Absolute Divorce and Awarding Child Custody did not order SBP Former Spouse coverage.

c. On 3 October 2002, Petitioner married [REDACTED].

d. On 14 September 2006, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel and elected not to participate in SBP with spouse concurrence.

e. Petitioner transferred to Fleet Reserve effective 1 January 2007.

f. On 18 November 2012, Petitioner divorced [REDACTED]. Final Judgement of Divorce did not order SBP Former Spouse coverage.

g. On 21 July 2014, Petitioner married [REDACTED].

h. On 22 December 2023, Petitioner signed Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Enrollment Election. Petitioner elected for Spouse only coverage at the full gross retired pay level of coverage, to submit a partial payment of buy-in premium due and initiate a Voluntary Payment Plan for the remainder to be deducted in 12-equal monthly installments. Petitioner's Spouse only premium deductions began effective 22 December 2023.

i. On 6 May 2024, Petitioner wrote the Defense Finance and Accounting Service (DFAS) requesting to withdraw from SBP stating, "[t]he buy-in dollar amount of \$48,693.20 is much more than I can ever afford. Please withdraw my SBP plan from my retirement account so that no premiums will come out monthly."

j. On 28 May 2024, the DFAS denied Petitioner's request to cancel Open Season enrollment due to not receiving notice within 30 days of signing enrollment form.

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 determined there is no record of Petitioner submitting a Letter of Intent to Enroll During the SBP Open Season that would have prompted the DFAS to provide Petitioner with the Individual 2023 SBP Open Enrollment Estimate prior to submitting his application to enroll in SBP Spouse coverage. The Board surmised that Petitioner's election was during the holidays and toward the end of the authorized period to enroll during the 2023 SBP Open Season Enrollment, resulting in his enrollment without being aware of the cost until receiving his Retiree Account Statement 5 months after making the election to enroll. Although Petitioner did not complete the proper administrative requirements, the Board determined that under this circumstance, relief is warranted.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]

RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner elected to cancel his 2023 SBP Open Season Enrollment within 30 days of making the election.

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.

10/29/2024

