



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

[REDACTED]
Docket No. 9461-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD [REDACTED]
USN RET, XXX-XX [REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7B

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 show that Petitioner declined participation in Survivor Benefit Plan (SBP) and that all premiums were returned.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 19 March 2025 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

- a. On [REDACTED] [REDACTED] Petitioner got married.
- b. On [REDACTED] [REDACTED], Petitioner's first dependent child was born.
- c. On [REDACTED] [REDACTED], Petitioner's second dependent child was born.

d. In accordance with reference (b), Election Coverage. 4.1.1. A member may elect coverage at the maximum level or at a reduced amount with spouse's concurrence, if required, for: 4.1.1.1. An eligible spouse only; 4.1.1.2. An eligible spouse and dependent child(ren); or 4.1.1.3. Dependent child(ren) only. 4.1.2. Every retiring member who is married at retirement is automatically enrolled in SBP for full coverage unless the spouse consents in writing to reduced coverage or no coverage before the first day of eligibility to receive retired pay. See subparagraph 4.1.4.

Spousal Concurrence. Written spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, include electing child-only coverage, and when a member eligible for RCSBP declines coverage or elects coverage that provides less than a maximum immediate spouse annuity. The signature of the spouse must be notarized. The requirement to have the spouse's signature notarized is not to suggest that the spouse has received additional counseling regarding the option being selected. It simply provides certification that the spouse signed the form and acknowledges the election made on the form. 5.3.5.1. If all requirements for an election needing the spouse's concurrence have not been satisfied prior to retirement, full spouse costs and coverage will be implemented, regardless of any request by the member to do otherwise. In such cases, when the member has requested any form of child coverage, full spouse and child coverage will be implemented. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law.

Once participation is discontinued under this provision, no benefits may be paid in conjunction with the member's previous participation. No refund of any premiums properly collected will be made. 7.1.8. A member who discontinues SBP participation pursuant to this paragraph may not later resume coverage or elect SBP coverage upon acquisition of another class of beneficiary.

e. On 14 November 2023, Petitioner/witness signed a Data for Payment of Retired Personnel (DD Form 2656) listing block 36g (SBP beneficiary categories) I elected not to participate in SBP. Furthermore, Petitioner's spouse/notary signed section XII – SBP spouse concurrence on 8 November 2023. Part V states that, "...[t]he date of the spouse's signature in Item 43.C. MUST be before the date of the member's signature in Item 41.c., or on or after the date of retirement listed in Part I, Section I, Item 4. The spouse's signature MUST be notarized. Electronic signatures are allowed."

f. Petitioner was transferred to the Fleet Reserve with an honorable character of service and was issued a DD Form 214, Certificate of Release or Discharge from Active Duty for the period of 28 February 2001 to 31 July 2024 upon having sufficient service for retirement.

g. On 29 August 2024, Petitioner notified the Defense Finance and Accounting Service (DFAS) via Ask Retired Pay – Online Customer Service that "I am getting money taken out of my retirement check for SBP. I specifically elected to not participate in SBP and should not be getting money taken out. I will also need to be reimbursed for the money that was taken out in my most recent check."

h. On 6 September 2024, the DFAS notified Petitioner that "[y]our DD2656 submission was invalid. Therefore, by law, DFAS established your account with automatic SBP coverage. General Processing has advised that your signature and date was after the notary."

i. On 22 November 2024, Petitioner and spouse signed and notarized a Survivor Benefit Plan (SBP) Affidavit declining SBP coverage.

j. On 12 December 2024, the DFAS HUNT system listed SBP coverage for spouse only in the amount of \$272.18.

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USN RET, XXX-XX-[REDACTED]

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 that on 14 November 2023, Petitioner/witness signed a DD Form 2656 declining participation in SBP, however Petitioner did not realize that his spouse's signature and that of the notary must not be dated prior to his own signature. Because his spouse/notary signed the DD Form 2656 prior to the date he signed it, the DFAS auto enrolled Petitioner in Spouse SBP. The Board determined that Petitioner provided sufficient evidence to reflect his and spouse's desire to decline SBP coverage prior to his retirement. Although Petitioner did not complete the proper administrative requirements, the Board determined that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner elected to decline participation in SBP with spouse concurrence prior to transferring to the Fleet Reserve effective 1 August 2024.

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.

4/4/2025

