



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

■  
Docket No. 5769-20  
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552  
(b) DoDFMR, Vol 7B, Chapter 54

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 include current spouse as Reserve Component Survivor Benefit Plan (RCSBP) beneficiary.

2. The Board, consisting of [REDACTED], [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 July 2021 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), after 1 January 2001, a member who is married or has a dependent child, and who receives notice of eligibility (NOE) for retired pay is automatically enrolled in RCSBP coverage unless declines, defers, or delays coverage within 90-days of receiving NOE. Additionally, the policy indicates Reserve members that are not married when becoming eligible to participate in RCSBP, who later marries, may elect to participate in RCSBP, if the election is completed within 1 year of acquiring a spouse. However, the member may not reduce the level of RCSBP coverage nor may child coverage be eliminated.

b. Petitioner married [REDACTED] on 20 June 1992; they divorced on 19 June 2008. The divorce decree did not direct RCSBP or Survivor Benefit Plan Former Spouse coverage.

c. Petitioner earned 20 total years of qualifying service on 28 October 2008.

d. Petitioner issued Notification of Eligibility (NOE) to Receive Retired Pay at Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RCSBP) on 28 February 2009. Note: Petitioner is not married but has two dependent children at this time.

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e. On 12 March 2009, Petitioner signed DD Form 2656-5, Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate electing Option B – Deferred Annuity coverage for Children only at full-retired pay level of coverage.

f. Petitioner married [REDACTED] on 4 May 2012.

g. On 29 July 2020, Petitioner signed DD Form 2656-5, Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate electing Option C – Immediate Annuity coverage for Spouse only at full-retired pay level of coverage; Navy Personnel Command (PERS-912) did not accept the updated form as it was not received in a timely manner.

#### CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect participation in RCSBP following receipt of NOE in 2009, but failed to notify Navy Personnel Command (PERS-912) of current marriage to [REDACTED] within 1-year of their nuptials in accordance with reference (b). Although Petitioner did not complete the proper administrative requirements in a timely manner, the Board concluded that relief is warranted.

#### RECOMMENDATION

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

Petitioner changed RCSBP election from "Children" to "Spouse and Children" coverage naming [REDACTED] and [REDACTED] as beneficiaries, at the same level of coverage as previously elected within 1-year of marriage on 4 May 2012.

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-entitled 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.

8/4/2021

Signed by: [REDACTED]