



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

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Docket No. 3232-21
Ref: Signature Date

Dear ■■■■■■■■■■,

This is in reference to your application for correction of your spouse's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your spouse's naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 1 December 2021. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your spouse's naval record and applicable statutes, regulations, and policies.

You requested to establish entitlement to Reserve Component Survivor Benefit Plan (RCSBP) annuity. The Board, in its review of your spouse's entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that you do not meet the eligibility criteria for an SBP annuity in accordance with Department of Defense Financial Management Regulation 7000.14-R. Specifically, the policy outlines that a member who is married or has dependent child, and who receives notice of eligibility (NOE) for retired pay, after 1 January 2001, is automatically an immediate participant in RCSBP unless the member elects not to participate or to defer the decision or delay coverage before the end of the 90-day period. The election to participate in or decline RCSBP is irrevocable. Additionally, the policy stipulates if a member is not married at the end of the 90-day period, the member may later elect RCSBP coverage, if the election is completed with 1 year of acquiring a spouse. A review of your spouse's record indicates he was issued his NOE on 5 December 2000. Your spouse signed NRPC 1772/3, Reserve Component Survivor Plan on 5 February 2001, electing RCSBP Option B (Deferred Annuity) Child only coverage at the full retired pay level of coverage. Navy Personnel Command deemed your spouse's election invalid because his daughter would have aged out as an eligible SBP beneficiary before your spouse's sixtieth birthday; therefore, he was automatically enrolled RCSBP Option C (Immediate

Annuity) Child only coverage. There is no record of your spouse changing his election to RCSBP Spouse coverage within 1-year of your 18 May 2002 marriage, nor is there evidence of him taking advantage of the open enrollment period of 1 October 2005 through 30 September 2006 to elect RCSBP Spouse coverage.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

1/14/2022

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Deputy Director
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