

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 3722-21 Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO , USNR RET,

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Ref: (a) Title 10 U.S.C. § 1552

(b) DODFMR, Vol 7B, Chp 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 establish Reserve Component Survivor Benefit Plan (RCSBP) Former Spouse coverage.
- 2. The Board, consisting of property 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 to reference (b), a member with spouse or spouse and child coverage may, within one year of the date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child. Furthermore, if the member fails or refuses to make such election, the member is deemed to have made such election if the Secretary concerned receives a completed DD Form 2656-10 from a former spouse within one year of the date of the court order or filing involved.
  - b. Petitioner married on 7 May 1988.
- c. On Receive Retired Pay at Age 60 and to Participate in RCSBP.
- d. On 25 September 2021, Petitioner signed NRPC 1772/3, Reserve Component Survivor Benefit Plan electing Option C (Immediate Annuity) Spouse only coverage at the full retired pay level of coverage.
  - e. Petitioner transferred to the Retired Reserve without pay effective 1 November 2001.

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- f. Petitioner divorced on 14 January 2014. Judgement of Divorce ordered RCSBP Former Spouse coverage.
  - g. Petitioner was married to from 31 January 2016 through 8 June 2020.
- h. Petitioner transferred to the Retired Reserve with pay effective 28 August 2020 and RCSBP and Survivor Benefit Plan Spouse premium deductions began with annuitant.

## 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 failed to elect RCSBP Former Spouse coverage as directed by the Judgement of Divorce in a timely manner. Although Petitioner did not complete the proper administrative requirements, the Board felt that under these circumstances, relief is warranted.

## RECOMMENDATION

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

Petitioner changed RCSBP election from "Spouse" to "Former Spouse" coverage naming as the beneficiary, at the full gross pay level of coverage, within 1-year of date of divorce on 14 January 2014.

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.

