



**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. 5105-21

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Dear █ █

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your 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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 February 2022. 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 naval record and applicable statutes, regulations, and policies.

You requested to decline Reserve Component Survivor Benefit Plan (RCSBP) based on your 9 October 2015 Judgment of Dissolution and Marital Settlement Agreement. The Board, in its review of your entire record and your application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that Department of Defense Financial Management Regulation 7000.14-R specifies that members notified of completion of the years of service required for retired pay eligibility for non-regular retirement must make an election to decline or elect reduced coverage with spousal concurrence within 90-days of receiving notification. The election to participate in or decline Reserve Component Survivor Benefit Plan (RCSBP) is irrevocable. After 1 January 2001, a member who is married or has a dependent child is automatically enrolled in RCSBP if an election is not received within 90-days of receiving notification. A review of your record indicates you were issued Notification of Entitlement to Retired Pay at Age 60 and eligibility to participate in the RCSBP on 31 May 2004. The aforementioned notification provided you the RCSBP Fact Sheet with Option-Election Certificate and direction on making an election within 90-days of receiving the letter. On 31 August 2004, Headquarters Marine Corps (MMSR-5) did not receive an RCSBP Election Certificate from you; therefore, you were automatically enrolled in Option C (Immediate Annuity) RCSBP coverage.

On 6 June 2017, your former spouse signed DD Form 2656-10, Survivor Benefit Plan (SBP)/Reserve Component (RC) SBP Request for Deemed Election as authorized by your Restatement of Stipulated Order for the Division of Military Retired Pay Filed May 23, 2017. This order indicates it is “an integral part of the Judgement of Dissolution entered by this Court on October 30, 2015, and shall supersede and restate in its entirety the Stipulated Order for Division of Military Retired Pay filed May 23, 2017.” RCSBP and SBP Former Spouse coverage was directed in this order.

The Board felt that authorizing you to decline RCSBP coverage would be undermining the court order and recommended that when you submit DD Form 2656, Data for Payment of Retired Personnel, that you elect Former Spouse coverage as ordered by the court.

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,

2/25/2022

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Deputy Director  
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