



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



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, Chp 43
(c) 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 [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 19 January 2022 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 references (b) and (c), a member notified of their completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in RCSBP before the end of the 90-day period. Members who is married or has a dependent child is automatically an immediate participant in RCSBP unless the member elects (with spousal concurrence, if required) not to participate or to defer the decision or delay coverage before the end of the 90-day period. Any member who elected spouse or spouse and child coverage when becoming eligible to participate in the RCSBP, may within one year of the date of the decree of divorce, dissolution, or annulment of the marriage, change that election to provide the RCSBP annuity to the former spouse or the former spouse and child.

b. Petitioner married [REDACTED] on 1 November 1986 and divorced on 7 October 1994. Final Judgement of Dissolution of Marriage did not direct RCSBP Former Spouse coverage.

c. Petitioner married [REDACTED] on 24 May 1996.

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d. Petitioner issued Notification of Eligibility (NOE) to Receive Retired Pay at or After Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RCSBP) on 17 January 2007.

e. Petitioner divorced [REDACTED] on 13 February 2014. Final Judgement of Dissolution of Marriage directed Survivor Benefit Plan Former Spouse coverage.

f. Petitioner transferred to the Retired Reserve without pay effective 1 May 2016.

g. On 17 September 2021, Navy Personnel Command (PERS-912E) confirmed Petitioner was automatically enrolled in RCSBP Spouse and Child coverage upon not getting Petitioner's election within 90-days of receiving his NOE.

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 was properly enrolled in Option "C," RCSBP Spouse and Child coverage in accordance with reference (c). However, Petitioner failed to notify Navy Personnel Command (PERS-912) of his divorce from [REDACTED] within 1-year of dissolution of marriage in accordance with reference (b). 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 and Child" to "Former Spouse" coverage naming [REDACTED] as the beneficiary, at the full gross pay level of coverage, within 1-year of date of divorce on 13 February 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.

2/11/2022

[REDACTED]
Deputy Director

Signed by: [REDACTED]