



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

█  
1  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, USNR RET  
XXX-XX-█ (DECEASED)

Ref: (a) Title 10 U.S.C. § 1552  
(b) DoDFMR, Vol 7B, Chapter 54  
(c) Title 31 U.S.C. § 3702

Encl: (1) DD Form 149 w/attachments  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject's spouse, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her spouse's naval record be corrected to establish entitlement to receive Reserve Component Survivor Benefit Plan (SBP) annuity.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 2 February 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, she 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), 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 Option C (Immediate Annuity) RCSBP if an election is not received within 90 days of receiving notification.

b. Reference (c) indicates claims involving uniformed service members' pay, allowances, travel and transportation, payments for unused accrued leave, retired pay, and survivor benefits must be received within 6 years from the date it accrues. SBP annuity claims accrue upon the death of the retired member.

c. Subject married █ (Petitioner) on 10 December 1995.

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

- d. Subject's child, [REDACTED], was born on [REDACTED].
- e. Subject transferred to the Retired Reserve without pay effective 1 July 2003.
- f. On [REDACTED], Subject issued Notification of Eligibility (NOE) to Receive Retired Pay at Age 60 and Participate in RCSBP; Petitioner signed for the document on 22 September 2003.
- g. Subject passed away on 25 January 2010.
- h. On 21 January 2022, Navy Personnel Command (PERS-913E) confirmed Subject did not make an election within 90 days of receiving NOE and was automatically enrolled in RCSBP Spouse and Child coverage.

#### 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 her desire to claim the annuities she was entitled to following the Subject's death, and her lack of understanding the proper administrative requirements. Although the proper administrative requirements were not completed, the Board felt that under these circumstances, relief is warranted.

#### RECOMMENDATION

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

Ms. [REDACTED] submitted DD Form 2656-7, Verification of Survivor Annuity to Defense Finance and Accounting Service (DFAS) within 6 years of Subject's death on 25 January 2010.

Note: DFAS will complete an audit of Subject's pay records to determine retroactive SBP annuity entitlement.

A copy of this Report of Proceedings will be filed in Subject'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.

2/25/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]