



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] XXX XX [REDACTED]  
USMCR RET

Ref: (a) Title 10 U.S.C. § 1552  
(b) DODFMR, Vol 7B, Chapter 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 reflect not participating in the Survivor Benefit Plan (SBP) as of 19 January 2012.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 26 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 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 RCSBP if an election is not received within 90 days of receiving notification. Additionally, a member with spouse or spouse and child coverage may suspend coverage, within 1 year of date of the divorce. However, the child coverage may not be eliminated.

b. Petitioner married [REDACTED] on 26 September 1987.

c. Petitioner's child [REDACTED] was born on 11 February 1991.

d. Petitioner issued Notification of Entitlement (NOE) to Retired Pay at Age 60 and Eligibility to Participate in the RCSBP on 8 January 2007.

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- e. Petitioner transferred to the Retired Reserve without pay effective 1 June 2007.
- f. Petitioner divorced [REDACTED] on 19 January 2012. Agreed Final Decree of Divorce did not direct RCSBP Former Spouse coverage.
- g. On 25 July 2017, Petitioner issued notification of being automatically enrolled in RCSBP Option C (Immediate Annuity) as a result of not making an election within 90 days of receiving NOE.
- h. Petitioner transferred to the Retired Reserve with pay effective 25 September 2021.
- i. On 5 November 2021, Petitioner signed notice “Declining Participation in the Survivor Benefit Plan” before a notary witness.
- j. On 23 February 2022, Petitioner confirmed his child attended college between the age of eighteen and twenty-two.

#### 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 participation in RCSBP following receipt of NOE in 2007, but failed to notify Headquarters Marine Corps of his divorce within the 1-year prescribed time outlined in reference (b). Although Petitioner did not complete the proper administrative requirements in a timely manner, the Board concluded that partial relief is warranted.

#### RECOMMENDATION

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

Petitioner elected to suspend RCSBP Spouse coverage within 1-year of divorce on 19 January 2012. Note: RCSBP child coverage continues until the child ages out of being an eligible SBP beneficiary at age 22.

Defense Finance and Accounting Service will complete an audit of Petitioner’s pay records to determine if premium refund is due.

The part of Petitioner’s request for corrective action that exceeds the foregoing is denied in accordance with reference (b).

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

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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.

2/28/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]