



**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. 1369-22  
Ref: Signature Date

Dear ■■■■■,

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

A three-member panel of the Board, sitting in executive session, considered your application on 2 March 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 spouse's naval record and applicable statutes, regulations, and policies.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested to establish eligibility to receive Reserve Component Survivor Benefit Plan (RCSBP) annuities. The Board, in its review of your spouse's 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 outlines the requirements for RCSBP elections. Specifically, the policy indicates the election to participate in or decline RCSBP coverage is irrevocable. Additionally, the requirement for spousal concurrence on RCSBP elections did not become effective until 1 January 2001. Prior to 1 January 2001, service members who received Notification of Eligibility (NOE) and failed to make an RCSBP election within 90-days of receiving the NOE were automatically enrolled in RCSBP Option A - Declined Participation until Age 60. A review of your spouse's record indicates you married on 1 May 1999. On 6 August 2000, your spouse completed 20 total years

of qualifying service and was issued his NOE on 1 November 2000. On 8 November 2000, you were issued a notification outlining basic RCSBP information and the consequences of your spouse declining RCSBP coverage: █ signed for the letter on 21 November 2000. Navy Personnel Command (PERS-912) did not receive an election from your spouse within the prescribe timeframe and therefore, he was automatically enrolled in Option A. Your spouse transferred to the Retired Reserve (awaiting pay at age 60) effective 1 September 2001 and passed away before his sixtieth birthday. However, pursuant to Public Law 108-1375, an open enrollment period was prescribed and began 1 October 2005 through 30 September 2006 under Title 10, United States Code, Section 1448. During this period, your spouse had the option to enroll, conversely, there is no record of him making an election.

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,

3/22/2022

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Deputy Director  
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