



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

[REDACTED]  
Docket No. 3711-22  
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, Chapter 54  
(c) DODFMR, Vol 7B, Chapter 43

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 declined participation in the Survivor Benefit Plan (SBP).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 1 June 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), any member who is notified of their completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in the Reserve Component Survivor Benefit Plan (RCSBP) before the end of the 90-day period. A member who is married or has a dependent child, and who receives notice of eligibility for retired pay, after January 1, 2001, 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.

b. Reference (c) specifies, SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. If not all requirements for an election needing the spouse's concurrence have been satisfied prior to retirement, for whatever reason, full spouse costs, and coverage will be implemented, regardless of any request by the

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member to do otherwise. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law.

c. Petitioner married [REDACTED] on 7 October 1981.

d. Petitioner transferred to Retired Reserve without pay effective 1 April 2004.

e. On 3 June 2004, Petitioner issued Notification of Eligibility (NOE) to Receive Retired Pay at Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RCSBP).

f. On 1 September 2004, Navy Personnel Command (PERS-912) did not receive an election from Petitioner to decline participation with spouse concurrence; therefore, was automatically enrolled in RCSBP Spouse and Child coverage.

g. On 10 April 2020, Navy Personnel Command (PERS-912) received Petitioner's DD Form 2656, Data for Payment of Retired Personnel indicating he previously elected RCSBP Option "A" (Declined Coverage) and currently electing to not participate in SBP coverage. Petitioner and signed witness signed the form but block 39c and 40c-g were not completed. Petitioner's spouse signed the form before a notary witness on 2 April 2020; however, she failed to complete block 41.c.

h. Petitioner transferred to the Retired Reserve with pay effective 17 December 2020 and RCSBP and SBP premium deductions began.

i. On 24 May 2022, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to decline SBP 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 his and spouse's desire to decline RCSBP and SBP. 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 elected to decline participation in RCSBP with spouse concurrence prior to transferring to the Retired Reserve without pay effective 1 April 2004.

Petitioner elected to decline participation in SBP with spouse concurrence prior to transferring to the Retired Reserve with pay effective 17 December 2020.

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Note: Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine the amount of premiums to be refunded.

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.

6/23/2022

[REDACTED]

Deputy Director

[REDACTED]