



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

[REDACTED]  
Docket No. 6034-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
(DECEASED)

Ref: (a) Title 10 U.S.C. § 1552  
(b) DODFMR, Vol 7B, Chp 54  
(c) BUPERSINT 1001.39F

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

1. Pursuant to the provisions of reference (a), Subject's Former Spouse, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her former spouse's naval record be corrected to establish her entitlement to Survivor Benefit Plan (SBP) annuity and receipt of Arrears of Pay (AOP).

2. The Board, consisting of [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 September 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. Subject married [REDACTED] on 22 March 1997 and divorced on 25 July 2008. Judgement of Divorce directed survivor benefits for former spouse.

b. On 13 January 2010, notified Subject of his approval to transfer to the Retired Reserve effective 1 January 2010. This notification also specified "Upon your submission of application, per the guidelines of reference (c)<sup>1</sup> [Bureau of Naval Personnel Instruction 1001.39F], you will be eligible under [Title 10 U.S.C. 1223] for retired pay benefits, to include medical benefits at age 60."

c. On 5 August 2010, Subject issued Notification of Eligibility (NOE) to Receive Retired Pay at Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RCSBP).

---

<sup>1</sup> Reference (c) indicates individuals are responsible for making application to receive retired pay. It is not an automatic process. However, applications are provided in advance of the 60th birthday.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
(DECEASED)

d. On 20 May 2014, Navy Personnel Command (PERS-912) notified Subject of his automatic enrollment in RCSBP Option "A" (Deferred Until Age 60) effective 3 November 2010 as a result of not responding to notification to participate and not having any eligible beneficiaries on file. Additionally, the letter informed Subject "A copy of this letter has been forwarded for entry to your Official Military Personnel File. It will also be sent to the Defense Finance and Accounting Service when you apply for your retired pay."

e. On 21 July 2021, Subject passed away at age 66.

f. On 1 July 2022, Defense Office of Hearing and Appeals (DOHA) upheld Defense Finance and Accounting Service (DFAS) denial of annuity claim. As a part of the write-up, DOHA indicated Petitioner signed DD Form 2656-7, Verification for Survivor Annuity on 25 August 2021 and submitted to DFAS on 8 September 2021 and 7 December 2021; DFAS denial letters specified, "PO1 [REDACTED] was not on the retired pay roles and to contact the member's branch of service."

g. On 2 September 2022, Navy Personnel Command (PERS-912) confirmed they never "received a Retirement With Pay application."

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. Subject met the eligibility criteria to participate in RCSBP Former Spouse coverage upon divorce in accordance with reference (b),<sup>2</sup> but failed to make the RCSBP election within 90 days of receiving his NOE. Although Subject did not complete the proper administrative requirements, the Board felt under these circumstances, a measure of partial relief is warranted.

## RECOMMENDATION

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

Subject elected RCSBP Former Spouse coverage naming [REDACTED] as beneficiary within 90 days of receiving NOE. Note: This change authorizes Petitioner to RCSBP annuity.

Note: Navy Personnel Command (PERS-912) shall provide direction to Petitioner on requesting RCSBP annuity.

The part of the Petitioner's request for corrective action that exceeds the foregoing is denied. There is no record of Subject applying for retired pay in accordance with reference (c); therefore, Petitioner is ineligible for SBP annuity and AOP.

---

<sup>2</sup> Reference (b), 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 within 90 days of receiving notification of eligibility. If elected, RCSBP coverage is provided while a member awaits the requisite age of entitlement to retired pay (generally age 60). RCSBP premiums are deducted when the member begins to receive retired pay and are distinct from the standard premium which are reductions made for SBP coverage that is provided after the member becomes entitled to retired pay. When an RCSBP participant dies, any annuity payable to a survivor is reduced for the RCSBP coverage provided while the member awaited the requisite age of entitlement to retired pay.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
(DECEASED)

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

9/30/2022

[REDACTED]

Deputy Director

[REDACTED]