



**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. 7756-22  
Ref: Signature Date

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Dear █ █

This is in reference to your application for correction of your father's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your father'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 14 December 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 father's naval record and applicable statutes, regulations, and policies.

You requested to designate your brother, as your father's Survivor Benefit Plan (SBP) beneficiary upon death of the current SBP annuitant. The Board, in its review of your father's entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that the Department of Defense Financial Management Regulation 7000.14R specifies that 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 or decline Reserve Component Survivor Benefit Plan (RCSBP) is irrevocable. Upon transferring to the Retired Reserve with pay, RCSBP coverage converts to SBP coverage. Additionally, the policy indicates SBP annuity is terminated when the spouse annuitant dies. However, if the member provided coverage for children, the remaining children will receive SBP annuity equally effective on the first month following the death of the spouse. Conversely, the child is an eligible beneficiary only if: under age 18; at least 18 but under 22 and pursuing a full-time course of study in a recognized educational institution; or incapable of self-support because of physical or mental incapacity, which existed before the 18th birthday or was incurred before age 22 while pursuing a full-time course of study.

A review of your father's record indicated he was issued Notification of Eligibility to Receive Retired Pay at Age 60 and Participate in the RCSBP on 23 September 1993. The aforementioned notification provided your father with information on the RCSBP, an election certificate and direction on making an election within 90 days of receiving the letter. On 18 November 1993, your father elected RCSBP Option C (Immediate Annuity) Spouse only coverage and resumed RCSBP Spouse only coverage on each marriage thereafter. Subsequently, your father transferred to the Retired Reserve without pay effective 1 September 1994. On 4 February 2009, Navy Personnel Command provided your father confirmation that his spouse at that time was the only listed RCSBP beneficiary. On 20 September 2009, your father transferred to the Retired Reserve with pay, and RCSBP and SBP Spouse only premium deductions began. The Board could not find nor did you provide evidence that your brother met the aforementioned SBP eligible beneficiary criteria and your father's elections for RCSBP and SBP Spouse only coverages render your brother ineligible for SBP annuity.

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,

12/20/2022

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Deputy Director

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