



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

[REDACTED]
Docket No. 9205-22
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, Chp 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 declined participation in the Reserve Component Survivor Benefit Plan (RCSBP).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 January 2023 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. Petitioner married [REDACTED] on 10 November 1997, and his children [REDACTED] [REDACTED] was born on [REDACTED] and [REDACTED] was born [REDACTED].

b. On 11 May 2007 Petitioner issued Notification of Entitlement (NOE) to Retired Pay at Age 60 and Eligibility to Participate in the RCSBP.

c. On 15 August 2007 Headquarters Marine Corps (HQMC) notified Petitioner that an election had not been received, therefore, he was automatically enrolled in RCSBP Spouse and Child coverage effective 8 August 2007—Petitioner divorced [REDACTED] on 3 February 2017 and the Decree did not direct SBP Former Spouse coverage.

d. Petitioner transferred to Retired Reserve awaiting pay effective 1 June 2019.

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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 was properly notified of his eligibility to elect or decline RCSBP coverage and because an election was not received in the prescribed timeframe, he was automatically enrolled in RCSBP Spouse and Children coverage in accordance with reference (b).¹ Additionally, the Board could not find, nor did Petitioner provide evidence of notifying HQMC of his divorce to adjust his RCSBP beneficiary from spouse and children to children coverage within 1-year of divorce. The Board found Petitioner correctly began receiving RCSBP Spouse and Children coverage from August 2007 through date of divorce, therefore, under these circumstances, 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 one year of divorce effective 3 February 2017.

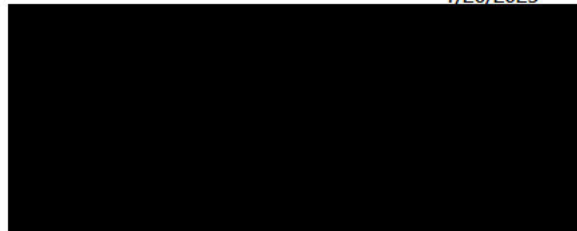
The part of the Petitioner's request for corrective action that exceeds the foregoing is denied. The Board determined Petitioner failed to provide evidence of declining participation of RCSBP within the 90 days of receiving NOE.

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.

1/20/2023



¹ 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 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. If a member with spouse and child coverage loses the spouse beneficiary through death or divorce, the member may not reduce the level of RCSBP coverage nor may child coverage be eliminated.