



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

[REDACTED]  
Docket No. 8005-17  
MAR 09 2018

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

Subj: REVIEW OF NAVAL RECORD IC [REDACTED]  
[REDACTED] USMCR RET

Ref: (a) Title 10 U.S.C. 1552

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 this Board requesting, in effect, that the applicable naval record be corrected to show timely written request to suspend spouse coverage under the Reserve Component Survivor Benefit Plan (RCSBP) within one year of the divorce to his first spouse, decline spouse coverage under the RCSBP within one year of the marriage to his second spouse, and decline spouse coverage under the Survivor Benefit Plan (SBP) prior to transferring to the retired list with pay.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 1 February 2018 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 your application, together with all material submitted in support thereof, relevant portions of your 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, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. On 13 March 2001, Petitioner elected RCSBP "spouse and child" coverage within 90 days of the receipt of his Notice of Eligibility (NOE) letter.

c. On 14 May 2004, Petitioner divorced [REDACTED] The court did not order RCSBP former spouse coverage.

d. On 30 April 2009, Petitioner transferred to the retired reserve awaiting pay at age 60.

e. On 21 December 2013, Petitioner married [REDACTED]

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f. On 18 March 2017, Petitioner turned 60 and began receiving retired pay.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting corrective action due to the following: Petitioner divorced his first wife and the court did not order former spouse coverage, however, he did not know that he had to suspend RCSBP coverage within one year of the divorce. Petitioner remarried, and even if he had suspended spouse coverage upon divorce, he did not decline coverage within one year after his remarriage. However, the Board noted that reservists often do not receive the same level of counselling on program guidance as the active component. Further, at the time the error occurred the Petitioner was not yet receiving retirement pay, so he didn't have the benefit of seeing on his monthly pay statement that premiums were being charged. The Board concluded that had the Petitioner known of his obligation to suspend and later decline coverage, he would have done so. As such, the Board felt that a measure of relief is warranted in this case.

## RECOMMENDATION

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

The Petitioner suspended RCSBP full spouse coverage, naming [REDACTED] within one year of the date the divorce (which occurred on 14 May 2004).

The Petitioner declined RCSBP full spouse coverage, naming [REDACTED] within one year of the date of his marriage (which occurred on 21 December 2015).

The Petitioner declined Survivor Benefit Plan (SBP) full spouse coverage, naming [REDACTED] prior to transferring to the retired list with pay (which occurred on 18 March 2017). Any other election or declination executed by Petitioner is null and void.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that 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.

[REDACTED]  
Recorder

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

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corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED]  
Executive Director