

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

> Docket No. 1889-24 Ref: Signature Date

Dear	,
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This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your 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 11 September 2024. 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 naval record and applicable statutes, regulations, and policies.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested to change your record to reflect declined participation in Reserve Component Survivor Benefit Plan (RCSBP) and refund of premiums. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that Department of Defense Financial Management Regulation (DODFMR) 7000.14-R 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 in or decline RCSBP is irrevocable. After 1 January 2001, a member who is married or has a dependent child is automatically enrolled in RCSBP if an election is not received within 90-days of receiving notification. Additionally, the policy indicates RCSBP coverage for the member's survivors commences but premiums are not paid until the member first becomes actually entitled to retired pay. RCSBP premium deductions are for the coverage provided while the member awaited the requisite age of entitlement to retired pay. RCSBP premiums are distinct from Survivor Benefit Plan (SBP) premiums. In accordance with Office of the Assistant Secretary of Defense Memorandum "Implementing and Procedural Guidance for Section 643 of PL 117-263, December 23, 2022, Survivor Benefit Plan Open Season" members with RCSBP coverage who are discontinuing must still pay premiums for coverage already received once they begin receiving retired pay.

A review of your record reflects that on 7 May 2001, you were issued Retirement Order and Transfer Authorization to Retired Reserve Status/Notification of Eligibility (NOE) for Retired Pay at Age 60 and Elections Available Under the RCSBP with an effective date of 1 May 2001; your spouse signed for the letter. The aforementioned notification provided you with information on the RCSBP, an Election Certificate, and direction on making an election within 90-days of receiving the letter. On 11 May 2001, your spouse was issued a letter to acquaint her with basic information that could assist you with making an RCSBP election. Navy Personnel Command (PERS-912) did not receive an RCSBP Election Certificate from you within 90-days of you receiving the NOE, resulting in your automatic enrollment in RCSBP "Option C" (Immediate Annuity) coverage. On 10 September 2021, you signed DD Form 2656, Data for Payment of Retired Personnel and elected SBP Spouse only coverage at the full gross pay level of coverage. Thereafter, you transferred to the Retired Reserve with pay effective 24 October 2021. Upon transferring to the Retired Reserve with pay, your coverage changed from RCSBP to SBP coverage, and premium deductions began for both coverages in accordance with the DODFMR. On 30 January 2023, you and your spouse signed before a notary witness the Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Season Election to Discontinue Participation form. By signing this form, you acknowledged, "No Premium Refund...For RCSBP coverage already received, you will still be charged the premiums owed for that coverage at eligibility age." Your SBP coverage discontinued on 1 March 2023.

The Board noted that you received RCSBP coverage from the time of automatic enrollment through 23 October 2021 and your beneficiary would have received an annuity if something happened to you during this time. Therefore, the Board determined that a change to your record is not warranted.

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.

9/27/2024

Sincerely,