



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

██████████  
Docket No. 7603-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████, USN RET,  
XXX-XX-██████/██████

Ref: (a) Title 10 U.S.C. § 1552  
(b) DoDFMR Vol 7B

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 her naval record be corrected to reflect declined participation in Reserve Component Survivor Benefit Plan (RCSBP) and Survivor Benefits Plan (SBP).

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 4 December 2024 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. In accordance with 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. 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 the Survivor Benefit Plan (SBP) premiums.

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b. On 4 July 1996, Petitioner married [REDACTED] and divorced on 5 June 2002. Judgment for Absolute Divorce did not order SBP Former Spouse coverage.

c. On 28 June 2003, Petitioner married [REDACTED].

d. Petitioner transferred to the Retired Reserve without pay effective 1 April 2010.

e. On 12 April 2010, Petitioner issued Notification of Eligibility (NOE) to Receive Retired Pay at Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RCSBP).

f. On 11 July 2010, Navy Personnel Command (PERS-912) did not receive Petitioner's SBP election; therefore, automatically enrolled her in SBP Spouse coverage.

g. On 3 July 2024, Petitioner signed DD Form 2656, Data for Payment of Retired Personnel and elected to not participate in SBP coverage with spousal concurrence.

h. Petitioner transferred to the Retired Reserve with pay effective 20 September 2024; RCSBP and SBP premium deductions began.

i. On 3 November 2024, Petitioner and spouse signed SBP Affidavit before a notary witness requesting to decline SBP coverage with spousal concurrence.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect her and spouse's desire to decline participation in RCSBP. Additionally, the Board found the NOE to Receive Retired Pay at Age 60 and Participate in the RCSBP was ambiguous and lacked clear direction on the requirement to decline SBP participation. Therefore, the Board determined that under these circumstances, relief is warranted.

## RECOMMENDATION

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

Petitioner elected to decline participation in RCSBP with spousal concurrence within 90-days of being issued NOE to Receive Retired Pay at Age 60 and Participate in the RCSBP on 12 April 2010.

Petitioner elected to decline participation in SBP with spousal concurrence prior to transferring to the Retired Reserve with pay effective 20 September 2024.

Note: The Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine amounts due, if any.

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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 titled 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.

12/18/2024

