



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

██████████
Docket No. 9144-24
Ref: Signature Date

██████████
██████████
██████████

Dear ██████████,

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 10 April 2025. 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.

In accordance with DoD 7000.14-R FMR Volume 7B, "Eligible beneficiaries under the RCSBP [Reserve Component Survivor Benefit Plan] include spouse, child, former spouse, and natural person with an insurable interest. Members eligible to participate in RCSBP may elect coverage in one of the following coverage categories: spouse; spouse and child; child only; former spouse; former spouse and child; natural person with an insurable interest; or Special Needs Trust (SNT)."

"Any member who is notified of his or her completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in 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. See subparagraph 5.2.7."

"Changes In Election and Coverage. In some circumstances, a member may make a change in RCSBP election or coverage after first becoming eligible for RCSBP (at the time of

receiving notice of eligibility (NOE) of meeting service requirements for a non-regular retirement) and making an initial election. See DoDI 1332.42, Section 4.4...”

On 9 January 1988, you got married (██████████).

On 26 July 1995, in the Circuit Court of the Fourth Judicial Circuit in and for ██████████ County, ██████████ issued a Marital Settlement Agreement, which you and your former spouse signed.

On 11 August 1995, in the Circuit Court of the Fourth Judicial Circuit in and for ██████████ County, ██████████ issued a Final Judgment of Dissolution of Marriage signed by a judge.

On 30 December 2000, in the Circuit Court of the Fourth Judicial Circuit in and for ██████████ County, ██████████ issued a Stipulation for Modification of Final Judgment of Dissolution of Marriage, which you and your former spouse signed.

On 6 March 2004, you got married (██████████).

On ██████████, Commanding Officer, Naval Reserve personnel Center notified you that “[y]ou have completed all requirements to receive retired pay at age 60 under the provision of references (a) [10 U.S.C. 1223] and (b) [BUPERSINST 1001.39D]...”

You are now also entitled to participate in the RCSBP. Enclosure (3) [NRPC 1772/2 (Rev. 9-96)] provides pertinent information and an election certificate. Your completed election certificate must be submitted to this command (N32), within 90 days of receipt of this letter. Your election is irrevocable except upon certain changes in dependent status.”

On 11 April 2006, Commanding Officer, Navy Reserve Personnel Center notified you that “[p]er references (a) [10 U.S.C. 10154] and (b) [10 U.S.C. 12774(a)], the Chief of Navy Personnel approved your request and authorized your transfer to Retired Reserve status effective 1 October 2005.

Upon your submission of application, per the guidelines of reference (c) [BUPERSINST 1001.39D], you will be eligible under reference (d) [10 U.S.C. 1223] for retired pay benefits at age 60. Enclosure (1) [DD Form 363N] is your Certificate of Retirement.”

On 12 December 2007, in the Circuit Court of the Fourth Judicial Circuit in and for ██████████ County, ██████████ issued a Consent Final Judgment of Dissolution of Marriage signed by a judge. “THIS CAUSE having come to be heard upon the Wife’s Petition for Dissolution of Marriage and the parties having reached an agreement with regard to all issues as evidenced by the Husband’s signature, by the signature of the Wife and the signature of the Wife’s attorney attached hereto, the Court ratifies, confirms and approves the agreement entered into by the parties....”

On 16 March 2019, you got married (██████████).

On 9 July 2023, you signed/witnessed a Data for Payment of Retired Personnel (DD Form 2656) listing the following: block 35a Reserve Component Only "Option A", block 36g (SBP beneficiary categories) "I elect not to participate in SBP." Furthermore, spouse signed/witnessed on 10 July 2023.

On 22 September 2023, Commander, Navy Personnel Command (PERS-9) notified you that "[p]er reference (a) [10 U.S.C. § 12731(a)] the Secretary of the Navy approved your application for retired pay for nonregular service. Your initial date of eligibility for retired pay is 17 April 2024. Per your request, your authorization to retired pay is effective 17 April 2024.

Per references (b) [10 U.S.C. § 12732] and (c) [10 U.S.C. § 12733], computation of your retired pay under reference (d) [10 U.S.C. § 12739] will be based on 20 years 7 months 22 days of qualifying service, 02998 retirement points and a pay entry base date of 9 February 1985."

On 22 September 2023, Commander, Navy Personnel Command (PERS-912) notified Defense Finance and Accounting Service, Cleveland, OH that "[p]er references (a) [10 U.S.C. Chapter 1223], [10 U.S.C. Chapter 73, subchapters II and III] through (c) [DoD Financial Management Regulation, Volume 7B, Chapter 42], on 18 May 2005, we sent the subject member a Notification of Eligibility (NOE) letter to receive Retired Pay at/or beyond the age of 60 in addition to the Reserve Component-Survivor Benefit Plan (RC-SBP) election certificate. PERS-912 did not receive an election certificate from the member as was requested in the correspondence on the aforementioned date.

Per references (a) through (c), in the NOE, the member was informed of the 90 days from the date of receipt response to PERS-912 requirement. If no response is received from the member as requested the member is then automatically enrolled in the RC-SBP plan. Therefore, as of 16 August 2005, the member was enrolled in an immediate RC-SBP annuity for his/her spouse. Covered spouse, ██████████; SSN, ██████████; date of birth, ██████████; date of marriage, 6 March 2004."

On 23 September 2023, you signed/witnessed a Survivor Benefit Plan Election Change Certificate (2656-6) listing the following: block 9 (Place an X in the appropriate box to indicate your election) "Resume existing coverage." Block 10 (If this is an initial election...) "Full retired pay."

On 18 November 2024, you and spouse signed SBP Affidavit before a notary witness requesting to decline SBP coverage.

On 14 March 2025, the Defense Finance and Accounting Service (DFAS) HUNT system shows that you enrolled in SBP spouse coverage effective 17 April 2024 in the amount of \$68.53 and RCSBP 35.62.

You requested to change your record to reflect declined participation in SBP. 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 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 in the RCSBP 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 the SBP premiums.

You were issued NOE to Receive Retired Pay at Age 60 and Participate in the RCSBP on [REDACTED]. 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. 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 Option C (Immediate Annuity) RCSBP Spouse only coverage effective 16 August 2005. On 1 October 2005, you transferred to the Retired Reserve without pay and thereafter, divorced your second spouse on 13 December 2007. You married your current spouse on 16 March 2019, followed by your transfer to the Retired Reserve with pay effective 17 April 2024. 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 abovementioned policy.

Because you were married to your second spouse when your NOE was issued, and because she was the spouse who was auto enrolled when PERS-912 did not receive an RCSBP Election Certificate from you within 90-days of you receiving the NOE, her concurrence was required to decline RCSBP. The divorce decree does not seem to indicate that you were required to cover your second spouse in RCSBP, however at that time, she was covered and would have received benefits if anything had happened to you. Therefore, the Board determined that a change to your record is not warranted at this time.

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,

4/16/2025
[REDACTED]