



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

██████████  
Docket No. 10028-24  
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 17 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.

On 19 May 1995, you got married (██████████). On 12 September 1996, your first dependent child was born (██████████). On 22 September 1998, your second dependent child was born (██████████). On 7 March 2002, you got divorced. The Judgement did not order RCSBP/SBP Former Spouse coverage.

On 14 February 2003, you got married (██████████).

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.

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... Marriage Where No Spouse at NOE. A member who had no eligible spouse at NOE (and was not required to elect former spouse coverage) and later marries may elect RCSBP spouse coverage as follows. Member Participating. If the member elected to participate in RCSBP at NOE (i.e., elected Option B or C for a child or insurable interest), the member may elect to add spouse coverage to child coverage or terminate an insurable interest beneficiary coverage in favor of spouse coverage. The election must be made on a DD Form 2656-6 and received within one year of the marriage. The level of coverage cannot be changed. The member is not required to have the concurrence of the new spouse to elect not to add spouse coverage. Failure to make the election within one year terminates eligibility for that spouse and any subsequent spouse.

On 23 June 2004, Commanding Officer, ██████████ 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 1001.3SD]. Eligibility may not be denied or revoked unless it resulted directly from fraud or misrepresentation on your part. The number of years of creditable service and the amount of retired pay, however, may be adjusted for errors...”

“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.

If you are now, or become, entitled to retired pay from an Armed Force, or retainer pay as a member of the Fleet Reserve or Fleet Marine Corps Reserve, by any provision of Federal Law, you will not be entitled to retired pay under the provisions of reference (a) nor will you be eligible for RCSBP.”

On 17 July 2004, your certified mail package was signed by your spouse.

On 1 June 2006, Commanding Officer, ██████████ 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 01 August 2006.

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.”

On 30 June 2022, your spouse signed a Spouse's Consent to Survivor Election (Standard Form 3107-2) electing "[n]o regular or insurable interest survivor annuity for my current spouse."

On 29 March 2023, you and witness signed a Data for Payment of Retired Personnel (DD Form 2656) Section X – Survivor Benefit Plan (SBP) Election block 36 (SBP beneficiary categories) listed "I elect not to participate in SBP." Furthermore, your spouse/Notary signed on 29 March 2023.

On 11 April 2023, Commander, Navy Personnel Command (PERS-912) notified Defense Finance and Accounting Service (DFAS) that "[p]er references (a) through (b), on June 23, 2004, 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) [10 U.S.C. Chapter 1223], [10 U.S.C. Chapter 73, subchapters 11 and III] through (c) [DoD Financial Management Regulation, Volume 7B, Chapter 42], 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 [REDACTED], the member was enrolled in an immediate RC-SBP annuity for his/her spouse and child. Covered spouse, [REDACTED] .....; SSN, ...; date of birth, [REDACTED]; date of marriage, [REDACTED] [REDACTED] child name, [REDACTED]; SSN, ...; date of birth, September [REDACTED]."

On [REDACTED], Commander, [REDACTED] 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 non- regular service. Your initial date of eligibility for retired pay is [REDACTED] [REDACTED] Per your request, your authorization to retired pay is effective [REDACTED] [REDACTED]

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 22 years 5 months 5 days of qualifying service, 05491 retirement points and a pay entry base date of [REDACTED] [REDACTED]

On [REDACTED] DFAS notified you that "[t]his letter is in response to your recent inquiry. We cannot process your Survivor Benefit Plan (SBP) request because your original election received [REDACTED] was invalid. Therefore, your current SBP election must remain as spouse.

If you wish to contest your original SBP election, you must file for administrative correction through your branch of service."

On 25 November 2024, you and spouse signed and notarized a Survivor Benefit Plan (SBP) Affidavit declining SBP coverage.

On 11 April 2025, DEAS HUNT system shows that you are enrolled in SBP spouse coverage effective [REDACTED] in the amount of \$150.84, RCSBP \$58.48, and Current cost \$209.32.

You requested to change your record to reflect declined participation in RCSBP and SBP, the Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that in accordance with DoD 7000.14-R FMR Volume 7B, "[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..." On 23 June 2004, your NOE was issued, and you were informed of the option to elect RCSBP. Furthermore, you were instructed to submit your election decision within 90 days of receipt of the NOE. At the time of issuance, you were married, and you had dependent children. The Board determined that for you to have declined RCSBP coverage, you were required to obtain written concurrence from your spouse, and you have provided no documentation that your spouse concurred with your decision to decline RCSBP within 90 days of the receipt of the NOE. On [REDACTED] you transferred to the Retired Reserve without pay and thereafter transferred to the Retired Reserve with pay effective [REDACTED]. Upon transferring to the Retired Reserve with pay, your coverage changed from RCSBP Spouse and Child coverage to SBP Spouse coverage, and premium deductions began for both coverages in accordance with the abovementioned policy. The Board noted that you received RCSBP coverage from the time of automatic enrollment through [REDACTED] and your beneficiaries 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 and advised that you may discontinue SBP coverage by submitting DD Form 2656-2, Survivor Benefit Plan (SBP) Termination Request to Defense Finance and Accounting Service, within 25 to 36 months after receiving retired pay effective [REDACTED].

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,

4/26/2025  
[REDACTED]