

DEPARTMENT OF THE NAVY

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

> Docket No. 7023-21 Ref: Signature Date



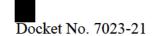
Dear

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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 26 January 2022. 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

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 establish eligibility to elect Survivor Benefit Plan (SBP) Spouse coverage. 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 outlines the requirements for SBP elections. Specifically, the policy indicates a member with a dependent child, who was unmarried on the date of retirement, may elect spouse coverage upon subsequent marriage regardless of whether coverage was elected for their dependent child. Conversely, the election must be received within 1-year of the marriage date. A review of your record indicates you were married to your first spouse from 4 December 1981 to 12 September 1988; the divorce decree did not direct SBP coverage. Prior to retirement, you signed NAVMC 11203, Retired/Retainer Pay Data, Non-Disability on 6 May 1992 electing SBP Child coverage at the full gross pay level of coverage. Thereafter, you transferred to the Fleet Marine Corps Reserve effective 16 August 1992 and SBP



Child coverage premiums were deducted from your retired pay until your coverage was suspended on 1 July 2007 upon your children aging out of SBP coverage eligibility. You married your second spouse on 26 October 2009; however, the Board could not find nor did you provide evidence of submitting DD Form 2656, Survivor Benefit Plan Election Change Certificate within 1-year of your marriage, thereby rendering you ineligible to elect SBP Spouse coverage.

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,
2/9/2022

Deputy Director
Signed by: