



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

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Docket No. 1398-22
Ref: Signature Date

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Dear █,

This is in reference to your application for correction of your father's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your father's 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 16 March 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 thereof, relevant portions of your father's 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 establish eligibility to receive Survivor Benefit Plan (SBP) annuities. The Board, in its review of your father's entire record and your 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 the election to participate in or decline SBP coverage is irrevocable. Additionally, a child of a Service member is an eligible beneficiary provided they are under the age of 18, or at least 18 but under 22 and pursuing a full-time course of study in a recognized educational institution. A review of your father's record indicates he elected SBP Spouse only coverage during the 1992 open enrollment period. On 5 November 2001, your father's spouse passed away and he notified Defense Finance and Accounting Service (DFAS) of her death on 12 December 2001. Subsequent to your father's death, an audit was conducted on his pay account and DFAS determined SBP Spouse coverage premium continued to be deducted

from his retired pay after the death of his spouse in 2001. As such, you were refunded \$13,632.52 arrears of pay for the period of 21 May 2012 through 30 April 2018. Pursuant to Title 31, U.S. Code, Section 3702(b)(1), the premiums from 1 December 2001 to 20 May 2012, in the amount of \$20,399.41, is barred. However, the Board noted that you are eligible to submit a new DD Form 149, Application for Correction of Military Record Under the Provisions of Title 10 U.S. Code, Section 1552 to this Board to receive the barred payment for the period of 1 December 2001 through 19 May 2012.

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,

4/5/2022

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Deputy Director

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