



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

█  
Docket No. 1840-22  
Ref: Signature Date

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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 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 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 elect Survivor Benefit Plan (SBP) Spouse only coverage. 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 Department of Defense Financial Management Regulation 7000.14-R, SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. Additionally, a member with an eligible spouse on the date of retirement who declines coverage is prohibited from electing SBP coverage except during an open enrollment period. There are no regular recurring open enrollment periods as they occur only when there are major changes to the SBP program and must be specifically prescribed by law; the last SBP open enrollment period was authorized 1 October 2005 through 30 September 2006.

A review of your record indicates you and your spouse signed DD Form 2656, Data for Payment of Retired Personnel on 11 June 1998 before a witness electing to decline SBP coverage. Thereafter, you transferred to the Fleet Marine Corps Reserve effective 1 August 1998 and began receiving retired pay without SBP premium deductions. The Board noted retirees receive a monthly Retiree Account Statement that outlines pay descriptions to include SBP coverage information; therefore, you should have been aware within a reasonable time from date of retirement, that you did not have SBP Spouse coverage. Moreover, there is no record of you taking advantage of the option to enroll in SBP Spouse coverage during the open enrollment periods of 1 March 1999 through 29 February 2000 and 1 October 2005 through 30 September 2006, thereby currently 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,

4/11/2022

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Deputy Director

Signed by: ■