



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

██████████
Docket No. 4899-22
Ref: Signature Date

██████████
██████████
██████████

Dear ██████████

This is in reference to your application for correction of your spouse's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your spouse'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 12 October 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 spouse'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 by changing your spouse's election to decline SBP coverage. The Board, in its review of your spouse's entire record and your 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 the SBP 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 was authorized 1 October 2005 through 30 September 2006. A review of your spouse's record indicates he signed DD Form 2656, Data for Payment of Retired Personnel on 5 October 2006

electing not to participate in SBP coverage with spouse concurrence the same day. Thereafter, he transferred to the Fleet Reserve effective 1 March 2007 and subsequently divorced his first spouse on 27 March 2008. You and your spouse married on 15 August 2009, however, because he previously declined to elect SBP Spouse coverage when he first became eligible, you are ineligible to be an SBP beneficiary.

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, _____

10/19/2022

