

DEPARTMENT OF THE NAVY

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

> Docket No. 8825-22 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 14 December 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 change your record to establish eligibility to enroll in the Reserve Component Survivor Benefit Plan (RCSBP) to provide coverage for your spouse. 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 specifies that members notified of completion of the years of service required for retired pay eligibility for non-regular retirement must make an election to decline or elect reduced coverage within 90-days of receiving notification. The election to participate in or decline RCSBP is irrevocable. However, members that are not married at the end of the 90-day period may later elect spouse coverage, if completed within 1-year of the marriage. After 1 January 2001, a member who is married or has a dependent child is automatically enrolled in RCSBP Option "C" (Immediate) coverage if an election is not received within 90-days of

receiving notification. Additionally, a member with an eligible spouse who declines coverage is prohibited from electing the RCSBP except during an open enrollment period.

A review of your record indicates you were issued Notification of Entitlement (NOE) to Retired Pay at Age 60 and Eligibility to Participate in the RCSBP on 31 July 2012. The aforementioned notification provided you with information on the RCSBP, an Election Certificate, and direction on making an election within 90-days of receiving the letter. Although you were not married at the time of NOE issuance, you did have three dependent children. Subsequently, you married your third spouse on 5 June 2015 and did not elect to participate in RCSBP. On 13 July 2017, after completing an audit of your record, Headquarters Marine Corps notified you of being "automatically enrolled into Option A "I decline to make an election until age 60" due to being identified as not making an election. Regrettably, your third spouse passed away on 6 October 2017. Thereafter, you transferred to the Retired Reserve awaiting pay at age 60 effective 1 January 2021 and later married your current spouse on 15 April 2021. Because you did not elect RCSBP Spouse coverage for your third spouse, your current spouse is 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.

