



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. 120-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 25 January 2023. 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.

You requested to change your record to reflect declined participation in the Survivor Benefit Plan (SBP) and refund of premiums. 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, SBP elections must be made prior to retired pay becoming payable. Additionally, written spouse concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available. The signature of the spouse must be notarized. If all requirements for an election needing the spouse's concurrence have not been satisfied prior to retirement, full spouse costs and coverage will be implemented. Furthermore, the election to participate in or decline SBP coverage is irrevocable. However, service members are eligible to discontinue SBP coverage by submitting DD Form 2656-2, Survivor Benefit Plan (SBP) Termination Request to Defense Finance and Accounting Service (DFAS), within 25 to 36 months after receiving retire pay.

Upon review of your record, the Board could not find, nor did you provide sufficient evidence to reflect that you elected to decline SBP coverage with proper spouse concurrence prior to your

transfer to the Fleet Marine Corps Reserve effective 1 November 2015. On the contrary, you provided the Board with an incomplete copy [back page only] of a DD Form 2656, Data for Payment of Retired Personnel, whereby you elected to decline coverage, signed by you on 15 July 2015 with witness and spouse's signatures, but spouse's signature is undated and not notarized as required. Moreover, DFAS has confirmed that an SBP election was not received prior to retirement, thereby properly enrolled you in SBP coverage effective 1 November 2015. The Board also 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 the date of retirement, that you were enrolled in SBP coverage and taken action to discontinue coverage. Conversely, DFAS does not reflect any attempts made by you to terminate coverage, rendering you ineligible to rescind your automatic enrollment and/or stop SBP 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,

1/31/2023

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