

DEPARTMENT OF THE NAVY

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

> Docket No. 1230-23 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 5 April 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.

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 reflect you elected Survivor Benefit Plan (SBP) Spouse Only coverage prior to retirement. 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 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. The last SBP open season was authorized from 1 October 2005 through 30 September 2006. However, the National Defense Authorization Act for Fiscal Year 2023 included an SBP open season that began on 23 December 2022 and ends on 1 January 2024.

A review of your record indicates you married your spouse on 27 August 1983. On 28 April 2000, you signed DD Form 2656, Data for Payment of Retired Personnel and elected not to participate in SBP; your spouse signed the form on 3 May 2000 concurring with your election. Thereafter, you transferred to the Fleet Marine Corps Reserve effective 1 August 2000. The Board found no error or injustice in your record that warranted relief but noted the current SBP open season allows retirees receiving retired pay who are not enrolled in SBP to enroll. Additional information may be found on the Defense Finance and Accounting Service webpage at https://www.dfas.mil/sbpopenseason23.

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.

