



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

█
Docket No. 9746-23
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 1 February 2024. 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. The Board, in its review of your spouse's entire record and your 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 the election to participate in or decline SBP coverage is irrevocable. Additionally, a member who does not have a spouse at the time of eligibility for the program may elect SBP coverage within 1-year of acquiring a spouse or during an SBP 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.

A review of your spouse's record indicates your spouse transferred to the Naval Reserve Retired List with pay effective 16 August 1990. Thereafter, he elected SBP Children only coverage

because he was not married at the time of retirement. You and your spouse married on 25 September 1999. Your spouse did not take advantage of the SBP open enrollment period of 1 October 2005 through 30 September 2006 and his first attempt to establish SBP Spouse coverage was over 13-years after your date of marriage. The Board noted retirees receive a monthly Retiree Account Statement that outlines pay descriptions to include SBP coverage information; consequently, your spouse should have been aware within a reasonable time from date of marriage, that he did not have SBP Spouse coverage. Therefore, the Board determined that a change to your spouse's record is not warranted.

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,

2/14/2024

