



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

[REDACTED]
Docket No. 6661-17
FEB 12 2018

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 January 2018. 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.

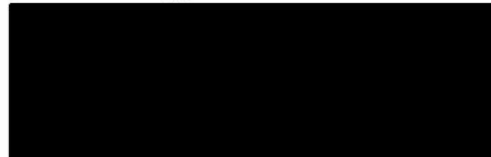
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. Per the Department of Defense Financial Management Regulation, Volume 7B, Chapter 43, a service member must elect or decline coverage under the Survivor Benefit Plan (SBP) before retired pay becomes payable. Written spousal 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 a declination of coverage have not been satisfied, or if a DD Form 2656 is not received by the Defense Finance and Accounting Service (DFAS) prior to retirement, a service member will be automatically enrolled in SBP spouse coverage at the maximum rate regardless of any request by the member to do otherwise. An election of coverage is irrevocable. However, a service member may voluntarily discontinue SBP participation during the 1-year period beginning on the second anniversary of the date of commencement of retired pay. To terminate coverage, a service member must submit a timely request on a DD Form 2656-2 (termination request) to the DFAS Survivor Benefit Plan Department.

You retired on 30 June 2011 and were automatically enrolled in SBP spouse coverage at the maximum rate due to DFAS not receiving a DD Form 2656. You and your spouse signed a

DD Form 2656 on 25 August 2011, but it was not notarized until 16 February 2012, a date which did not align with the date your spouse signed the form, therefore the form was invalid. You could have disenrolled during the 1-year disenrollment window, but you took no action to do so. The Board highlighted that had you passed away any time in the six years since your retirement, your spouse would have received the benefit of the annuity. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously 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. The Board did note that if you choose to submit a new petition requesting disenrollment during the 1-year disenrollment window, vice requesting disenrollment backdated to your retirement date, that they would review such request as a new application. They did want to highlight, however, that if your request was approved by the Board, you would not be reimbursed for premiums withdrawn during the initial two year period prior to the disenrollment window.

Sincerely,



Executive Director