



**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. 5830-23  
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 13 March 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 naval record and applicable statutes, regulations, and policies.

You requested to decline participation in the Survivor Benefit Plan (SBP) and receive premium refund. 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 the election to participate in or decline Reserve Component SBP (RCSBP) and SBP is irrevocable. A Reserve member electing to participate must designate an immediate election, a deferred election, or indicate a decision to delay the election until reaching retirement age. An election to decline or defer coverage requires spousal concurrence with a notary witness. Members electing Option B, choose to provide a deferred survivor annuity that begins on the date that member would have attained the age of 60, or on the day after the member's death, whichever is later. Additionally, RCSBP coverage for the member's survivors commences but premiums are not paid until the member first becomes actually entitled to retired pay. RCSBP converts to SBP coverage with the same beneficiaries and at the same level of coverage. RCSBP premium deductions are for the coverage provided while the member awaited the requisite age of entitlement to retired pay. RCSBP premiums are distinct from the SBP premiums that are for coverage that is provided after the member becomes entitled to retired pay.

A review of your record reflects you signed DD Form 2656-5, RCSBP Election Certificate on 16 September 2011 and elected Option B (Deferred Annuity) for Spouse only coverage at the full retired pay level of coverage. On 17 October 2011, Navy Personnel Command (NPC) notified you that your DD Form 2656-5 was not accepted because spousal concurrence with notarization was not obtained. On 22 October 2011, you signed a new DD Form 2565-5 and again elected Option B (Deferred Annuity) for Spouse only coverage at the full retired pay level of coverage; your spouse signed the form before a notary witness on the same day. You transferred to the Retired Reserve without pay effective 1 November 2011 and NPC accepted your new RCSBP election on 17 November 2011. Upon completing your retirement package, you and your spouse signed DD Form 2656, Data for Payment of Retired Personnel electing to decline participation in SBP. On 20 June 2023, NPC approved your request to transfer to the Retired Reserve with pay effective 8 January 2023, but Defense Finance and Accounting (DFAS) did not accept your SBP election because your RCSBP Option B coverage election converted to SBP coverage, and your spouse signed the DD Form 2656 on 5 June 2023 prior to your signature on 6 June 2023. Block 33 (Reserve Component Only) of the DD Form 2656 directs members who chose to elect RCSBP Option B coverage to “not make an election in Block 34 (SBP Beneficiary Categories), you have already elected coverage,” but, you incorrectly, indicated that you chose Option A in 2011 when you became eligible for RCSBP coverage. Furthermore, the direction for spouse SBP concurrence specifies “The date of the spouse’s signature in Block 41C MUST NOT be before the date of the member’s signature in Block 39C, or on or after the date of retirement listed in Part I, Section I, Block 4.” Therefore, the Board determined, a change to your record is not warranted. However, the Board noted that you are authorized to discontinue SBP coverage by submitting DD Form 2656-2, SBP Termination Request to DFAS, within 25 to 36 months after receiving retired pay effective 8 January 2023.

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,

4/1/2024

