

DEPARTMENT OF THE NAVY

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

> Docket No. 8055-23 Ref: Signature Date

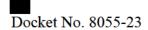
Dear

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 1 May 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 change your record to reflect declined participation in the Survivor Benefit Plan (SBP). 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. However, pursuant to Public Law 117-263 § 643, enacted on 23 December 2022, a person participating in the SBP on the day before the first day of the open season may elect to discontinue such participation during the open season. The open season described in this subsection is the period beginning on the date of the enactment of this Act and ending on 1 January 2024.

A review of your record reflects that you signed DD Form 2656, Data for Payment of Retired Personnel and elected SBP Spouse only coverage at the full gross pay level of coverage on 8 November 2022. You transferred to the Fleet Reserve effective 1 June 2023 and SBP Spouse only premium deductions began. On 9 August 2023, you and your spouse signed Survivor Benefit Plan (SBP) and Reserve Component Survivor Benefit Plan (RCSBP) Open Season Election to Discontinue Participation but the form was not notarized until 14 August 2023 which



deemed the form invalid. Defense Finance and Accounting Service (DFAS) denied your request to discontinue SBP Spouse coverage on 16 September 2023 in accordance with the aforementioned law as you were not enrolled in SBP as of 22 December 2022.

The Board determined a change to your record is not warranted but noted that you are eligible to discontinue SBP coverage by submitting DD Form 2656-2, Survivor Benefit Plan (SBP) Termination Request to DFAS, within 25 to 36 months after receiving retire pay effective 1 June 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.

