

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

> Docket No. 9716-23 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 20 June 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.

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 reconsideration of the Board's denial of your request to change your record to reflect you properly declined participation in the Survivor Benefit Plan (SBP) prior to becoming eligible to receive retired pay on docket number 8002-23. 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 the Department of Defense Financial Management Regulation 7000.14-R indicates an election for a natural person with an insurable interest may be made only when the member is not married and does not have any dependent children upon becoming eligible to participate. The Secretary concerned must receive the election before the first day of eligibility for retired pay. A member must elect full coverage when electing for a natural person with an insurable interest. Additionally, the Secretary of the Navy Instruction 5420.193 specifies that the Board relies on the presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will

presume that they have properly discharged their official duties. Applicants have the burden of overcoming this presumption but the Board will not deny an application solely because the record was made by or at the direction of the President or the Secretary in connection with proceedings other than proceedings of a board for the correction of military or naval records. Denial of an application on the grounds of insufficient evidence to demonstrate the existence of probable material error or injustice is final subject to the provisions for reconsideration.

The Board determined that your new evidence consisted of documentation of military sexual trauma that impacted your ability to question the Marines in charge of your medical retirement out-processing when they told you there was no option to opt-out of SBP. However, you did not provide any evidence of being coerced into electing your father as an SBP Natural Person with Insurable Interest beneficiary, leaving the Board to rely on the presumption of regularity. Therefore, the Board determined that no change to your record is 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,

7/1/2024

