



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. 226-24
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 7 August 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 your record reflect that you cancelled participation in the 2023 Survivor Benefit Plan (SBP) Open Season Enrollment. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that you did not meet the criteria to cancel your enrollment in accordance with Office of the Assistant Secretary of Defense memorandum of 9 March 2023, Implementing and Procedural Guidance for Section 643 of Public Law 117-263, December 23, 2022, SBP Open Season. Specifically, the policy indicates, an election to participate under the authority of Section 643, Public Law 117-263, was voluntary on the part of the eligible member and must be indicated as such in writing. For the election to have been valid, a member must have been alive and capable of making an informed decision. Members would be presumed to be capable of making an informed decision unless there was clear and convincing evidence to the contrary. However, once a member submitted an open enrollment election to participate, the member could cancel the election by notifying the Defense Finance and Accounting Service (DFAS) in writing within 30 days of making the election. To have been effective, the cancellation notice must have been in writing, must have been signed and dated (to include notarized signatures of persons who were required to concur in the election to discontinue), and must have been received by the DFAS within 30 days of the date of the member's signature on

the open season enrollment form. Elections that were not cancelled within the 30-day time period would become final and irrevocable and would result in the collection of the required premiums.

A review of your record reflects you elected to decline participation in SBP on 14 March 2001 with your spouse's concurrences and you transferred to the Fleet Reserve effective 1 April 2001. On 1 August 2023, you signed Letter of Intent to Enroll During the SBP Open Season for Spouse only coverage at the full gross retired pay level of coverage. This form notified you, that you would receive an estimate for the monthly and one-time buy premiums. Members that concur with the estimates must submit an official "SBP Open Season Enrollment Form" to the appropriate agency, specifying the payment arrangements. You were provided Individual 2023 SBP Open Enrollment Estimate that outlined the effective date of estimate was 1 September 2023, Spouse coverage at the full level of coverage, Cost Base Amount of \$2,706, \$175 SBP monthly premium cost and \$54,933.96 buy-in premium estimate. On 6 October 2023, you and your spouse signed the SBP and Reserve Component Survivor Benefit Plan (RCSBP) Open Enrollment Election form electing SBP Spouse coverage at a reduced base amount of \$1,800 and based on the estimate you received, you elected to submit partial payment of the amount of the "buy-in premium" due and initiate a Voluntary Payment Plan for the remainder to be deducted in 12 equal monthly installments plus installment interest either from retired pay or from Combat-Related Special Compensation pay. By signing the form you acknowledged, "I certify that I am not currently participating in the SBP (or RCSBP) and by submitting this form I am VOLUNTARILY enrolling prospectively. I understand that, upon enrollment, I will be legally responsible for an obligated to pay the costs associated with this open season election to enroll. An estimate of the cost has been furnished to me and all of my questions about the cost and benefits associated with this open season enrollment have been answered to my satisfaction. I understand that my decision to enroll may not be revoked (except as provided in the attached instructions). I am making this statement and this decision voluntarily with the full knowledge of its impact." Therefore, the Board determined that a change to your 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,

8/21/2024

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