

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 525-24 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 28 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 to change your record to reflect declined participation in 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 Department of Defense Financial Management Regulation 7000.14-R specifies that SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. If not all requirements for an election needing the spouse's concurrence have been satisfied prior to retirement, for whatever reason, full spouse costs, and coverage will be implemented, regardless of any request by the member to do otherwise. However, service members are eligible to discontinue SBP coverage by submitting DD Form 2656-2, SBP Termination Request to Defense Finance and Accounting Service (DFAS), within 25 to 36 months after receiving retire pay.

A review of your record indicates you were married to your first spouse from 20 July 2006 to 22 February 2012; your Final Decree of Divorce did not direct SBP Former Spouse coverage. On 15 October 2019, you married your current spouse. You transferred to the Fleet Reserve effective 1 September 2023 and automatically enrolled in SBP Spouse only coverage because DFAS did receive a copy of your DD Form 2656, Data for Payment of Retired Personnel before

retirement. Thereafter, DFAS received your DD Form 2656, Data for Payment of Retired Personnel form with your election to decline participation in SBP but member certification, witness, spousal concurrence, and notary dates were all dated for 6 September 2023, after your retired pay became payable. Therefore, DFAS could not honor your request to decline participation.

The Board determined there was no evidence provided, to overcome the burden of regularity, to show you submitted your DD Form 2656, Data for Payment of Retired Personnel to your separating agency prior to your retired pay becoming payable, and that the administration department failed to forward your form to DFAS. Therefore, the Board determined a change to your record is not warranted but noted that you are eligible to discontinue SBP coverage within 25 to 36 months after receiving retire pay effective 1 September 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.

