

Dear

DEPARTMENT OF THE NAVY

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

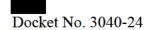
> Docket No. 3040-24 Ref: Signature Date

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 11 September 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 to decline 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 Department of Defense Financial Management Regulation 7000.14-R outlines the requirements for SBP elections. Specifically, written spouse concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available. The signature of the spouse must be notarized. Furthermore, the election to participate in or decline SBP coverage is irrevocable. However, service members are eligible to discontinue SBP coverage by submitting DD Form 2656-2, Survivor Benefit Plan (SBP) Termination Request to the Defense Finance and Accounting Service (DFAS), within 25 to 36 months after receiving retire pay. Spousal concurrence is also required to discontinue SBP coverage unless it is established that the spouse's whereabouts cannot be determined, or due to exceptional circumstances, such as mental



or physical incapacitation of the spouse, obtaining the spouse's consent would be inappropriate. In these exceptional circumstances, the DFAS requires appropriate documentation which attests to the spouse's mental or physical incapacitation and the incapacity must exist continuously since the date of the member's request.

A review of your record reflects that on 7 March 2022, you signed DD Form 2656, Data for Payment of Retired Personnel and elected to participate in SBP Spouse only coverage at the full gross pay level of coverage. Thereafter, you transferred to the Permanent Disability Retired List effective 31 March 2022 and SBP Spouse only premium deductions began. On 29 May 2024, the Board requested you submit a signed and notarized SBP affidavit with spouse concurrence to terminate SBP coverage; you replied that you don't have contact with him as you live in Iowa and he resides in Germany.

The Board is required by the aforementioned policy to obtain spousal concurrence to discontinue coverage. Therefore, the Board determined that a change to your record is not warranted and advised that you may now discontinue SBP coverage by submitting DD Form 2656-2, Survivor Benefit Plan (SBP) Termination Request to the DFAS within 25 to 36 months after receiving retired pay effective 31 March 2022. You may contact the DFAS for assistance with submitting the application without your spouse's signature due to be estranged.

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.

