

DEPARTMENT OF THE NAVY

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

> Docket No. 4254-24 Ref: Signature Date

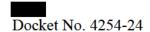
Dear

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 2 October 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 change your Survivor Benefit Plan (SBP) Former Spouse level of coverage based on a reduced base amount of \$300. 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, provide the spouse with less than the maximum SBP coverage available, or Child only coverage. The date of the spouse's signature must not be before the date of the member's signature. Additionally, deemed elections are applicable when a member is required by court order to make a former spouse election. If such member fails or refuses to make such election, the member is deemed to have made such election if the Secretary concerned receives a completed DD Form 2656-10, SBP Former Spouse Request for Deemed



Election, from a former spouse. A retiring member electing Former Spouse coverage should complete the election on a DD Form 2656, Data Payment for Retired Personnel.

A review of your record reflects that you divorced your former spouse on 13 March 2006; Judgement of divorce ordered you to maintain SBP coverage with your former spouse designated as the beneficiary. Per the judgment, you were not to cancel or reduce said coverage nor change the beneficiary thereof. On 17 September 2012, you married your current spouse. On 2 May 2021, your spouse signed DD Form 2656, Data for Payment of Retired Personnel before a notary witness with an election of SBP Child only coverage at the reduced base amount of \$3,042. However, you did not sign the form, thereby deeming the election invalid. Thereafter, you transferred to the Retired List effective 1 August 2021 and automatically enrolled in SBP Spouse coverage. On 15 March 2022, your former spouse signed DD Form 2656-10, Survivor Benefit Plan (SBP) Former Spouse Request for Deemed Election and your SBP coverage changed from Spouse to Former Spouse coverage at the full gross pay level of coverage in accordance with your Judgement of divorce. The Board determined that amending your SBP Former Spouse level of coverage would undermine the court order, therefore 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.

