



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

██████████  
Docket No. 4663-24  
Ref: Signature Date

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Dear Petitioner,

This is in reference to your application for correction of your former spouse's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of Subject's 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 9 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 Subject's 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 former spouse's record to reflect election of Survivor Benefit Plan (SBP) coverage with you as the beneficiary. The Board, in its review of Subject's entire record and your 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. Additionally, the election to participate in or decline SBP coverage is irrevocable. However, enrollment may be accomplished during an open season. Although there are no regular recurring open enrollment periods as they occur only when there

are major changes to the SBP program and must be specifically prescribed by law, there was an open season following Subject's retirement; 1 October 2005 to 30 September 2006.

A review of Subject's record reflects that you married on 5 July 1974. Thereafter, Subject transferred to the Fleet Marine Corps Reserve effective 20 June 1993. The Defense Finance and Accounting Service retired pay system indicates Subject declined SBP coverage. On 9 March 2006, you both divorced and the Final Judgement and Decree of Total Divorce directed "[u]pon the next open enrollment period, the [Subject] shall elect the Survivor's Benefit Annuity associated with his military retirement and shall designate [you] as the named beneficiary thereof, if Defendant [you] request." Subject passed away on 12 February 2022 and there is no record of his election to participate in the open aforementioned enrollment period.

The Board surmised that you were aware your former spouse did not elect SBP coverage at the time of retirement based on your Final Judgement and Decree of Total Divorce directing him to enroll during the next open enrollment period. Moreover, the Board could not find, nor did you provide evidence of requesting to be your former spouse's SBP beneficiary subsequent to your divorce, therefore the Board determined that a change to your former spouse's 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,

10/23/2024

