



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

Docket No. 8334-24
Ref: Signature Date

Dear [REDACTED],

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 29 January 2025. 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 decline 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. Written spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, unless the member establishes to the satisfaction of the Secretary concerned that the spouse's whereabouts cannot be determined, or due to exceptional circumstances, a requirement that the member seek the spouse's consent would otherwise be inappropriate. 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. There are a limited number of circumstance in which a military retiree may choose to withdraw from SBP coverage. Retirees may withdraw from the plan within 25 to 36 months after receiving retired pay; when the retiree loses an eligible beneficiary to death or divorce; or when their disability rating remains 100% for at least 10 years (or 5 years from the date of retirement).

A review of your record reflects that you married your first spouse on 9 October 2021. On 27 June 2023, you signed DD Form 2656, Data for Payment of Retired Personnel and elected not to participate in SBP without spouse concurrence; however, you indicated on the form that your spouse was unable to be located. Thereafter, you transferred to the Temporary Disability Retired List effective 31 August 2023 and automatically enrolled in SBP Spouse coverage due to not having your spouse's concurrence to decline coverage. On 7 September 2023, you divorced your first spouse; the Judgment of Divorce did not order SBP Former spouse coverage. On 12 October 2023, you married your current spouse and you both signed an SBP Affidavit before a notary witness on 17 December 2024, requesting to decline coverage due to receiving insufficient SBP information/counseling prior to your date of retirement.

The Board agreed that a change to your record is not warranted and advised that you may should be able to suspend SBP coverage effective the date of your divorce by submitting a complete copy of your divorce decree to Defense Finance and Accounting Service (DFAS). Additionally, you have the option to discontinue SBP coverage by submitting DD Form 2656-2, Survivor Benefit Plan (SBP) Termination Request to DFAS, within 25 to 36 months after receiving retired pay effective 31 August 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.

Sincerely,

2/8/2025

