



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

██████████
Docket No. 9187-24
Ref: Signature Date

██████████
██████████
██████████

Dear ██████████

This is in reference to your application for correction of your spouse's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your spouse'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 26 February 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 spouse'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 establish eligibility to receive Survivor Benefit Plan (SBP) annuities. The Board, in its review of your spouse's entire record and your application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that in accordance with Department of Defense Financial Management Regulation 7000.14-R, SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable except during an open season enrollment period. There are no regular recurring open season enrollment periods as they occur only when there are major changes to the SBP program and must be specifically prescribed by law. Additionally, prior to 1 March 1986, spousal concurrence was not required when the member declined coverage or provided the spouse with less than the maximum SBP coverage available, to include electing child-only coverage.

A review of your spouse's record indicates he signed an SBP counseling statement on 30 June 1977 electing not to participate in SBP coverage and transferred to the Temporary Disability Retired List effective 8 July 1977. Thereafter, your spouse transferred to the Retired List on 1 June 1982.

The Board noted that upon retirement, retirees receive a monthly Retiree Account Statement that outlines pay descriptions to include SBP coverage information, consequently the Board determined your spouse would have been reasonably aware that he was not paying SBP Spouse coverage premiums and that you were not an eligible beneficiary. Because your spouse previously declined to elect SBP Spouse coverage when he first became eligible and did not take advantage of participating in SBP during the four open season enrollment periods prior to his death, you are ineligible to receive an SBP annuity.

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,

3/6/2025
