

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 603-25 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 24 July 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.

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.

In accordance with DoD 7000.14-R FMR Volume 7B, Chapter 43, ELECTION COVERAGE. 4.1 Spouse and/or Child. 4.1.1. A member may elect coverage at the maximum level or at a reduced amount with spouse's concurrence, if required, for: 4.1.1.1. An eligible spouse only; 4.1.1.2. An eligible spouse and dependent child(ren); or 4.1.1.3. Dependent child(ren) only.

- 4.1.2. Every retiring member who is married at retirement is automatically enrolled in Survivor Benefit Plan (SBP) for full coverage unless the spouse consents in writing to reduced coverage or no coverage before the first day of eligibility to receive retired pay.
- 4.1.4. A married member who is eligible to provide SBP may not, without the concurrence of their spouse, decline participation in SBP, elect a reduced annuity for the spouse, or elect an annuity for a dependent child, but not for a spouse, unless the member establishes to the



satisfaction of the Secretary concerned that: 4.1.4.1. The spouse's whereabouts cannot be determined, or 4.1.4.2. Due to exceptional circumstances, a requirement that the member seek the spouse's consent would otherwise be inappropriate.

DISCONTINUANCE OF PARTICIPATION. 7.1 Discontinuance of SBP Participation on Second Anniversary. 7.1.1. An SBP participant may choose to voluntarily discontinue SBP participation during a 1-year period which begins on the second anniversary of the date of commencement of retired pay. The date of commencement of retired pay is defined as the date that the retiree becomes entitled to retired pay. A recall to active duty following retirement will not alter this date.

7.1.7. Once participation is discontinued under this provision, no benefits may be paid in conjunction with the member's previous participation. No refund of any premiums properly collected will be made.

date of retirement 28 June 2022.

On 26 May 2022, you were issued official retirement orders (BUPERS order: 1462) while stationed in with an effective date of departure of June 2022 and effective

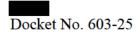
You were transferred to the Temporary Disability Retired List with an Honorable character of service and were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 20 July 2015 to 27 June 2022 due to Disability, Temporary.

On 7 December 2023, Commander, Navy Personnel Command (PERS-954) notified you that "[i]n accordance with the provisions of Title 10, U. S. Code, Section 1210, the Secretary of the Navy has determined that your disability for which you were placed on the Temporary Disability Retired List has stabilized and that your disability is now PERMANENT and rated at Seventy (70) percent disabling. Accordingly, you will be placed on the PDRL by reason of a permanent physical disability effective 5 December 2023 in the grade of E-5."

On 4 December 2024, you signed a SBP Termination Request (DD Form 2656-2) with spousal concurrence.

On 12 December 2024, Defense Finance and Accounting Service HUNT system shows that you enrolled in SBP spouse coverage effective 27 June 2022. Currently, your current cost is \$0.00. Furthermore, on 14 December 2024, spouse and child were excluded therefore no beneficiary exists.

You requested to decline participation in the SBP. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that, "I was enrolled in the SBP in error, and without my knowledge or consent. I would kindly request that the Board overturn my enrollment in this program to



include clearing any and all debts my unknown and undesired involvement in this program has incurred." The Board Majority concluded that there is no documentation in your record, nor did you provide any, showing you submitted a DD Form 2656, Data for Payment of Retired Personnel declining participation in the SBP with spouse concurrence prior to your transfer to the TDRL. You transferred to the Temporary Disability Retired List effective 28 June 2022 and were automatically enrolled in SBP Spouse coverage in accordance with DoD 7000.14-R FMR. On 4 December 2024, you and your spouse signed DD Form 2656-2 (SBP Termination Request) and DFAS discontinued your SBP participation on 14 December 2024. Additionally, in accordance with DoD 7000.14-R FMR, "[a]n SBP participant may choose to voluntarily discontinue SBP participation during a 1-year period which begins on the second anniversary of the date of commencement of retired pay...Once participation is discontinued under this provision, no benefits may be paid in conjunction with the member's previous participation. No refund of any premiums properly collected will be made." The Board Majority found your automatic enrollment appropriate, therefore premiums were properly collected prior to your discontinuation in SBP, and a refund of those premiums are not authorized. You received SBP coverage from 28 June 2022 to 13 December 2024 and your beneficiary would have received an annuity if something happened to you during this time, therefore the Board Majority 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.

