



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

██████████
Docket No. 4300-25
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 22 January 2026. 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.

In September 1978, your dependent child ██████ was born.

In June 1989, you married ██████.

In April 1991, you gain a stepchild ██████ born in October 1969.

On 29 December 1992, Commanding Officer, Naval Reserve Personnel Center notified you that, “[y]ou have completed all requirements to receive retired pay at age 60 under the provisions of Title 10, U.S. Code, Chapter 67 and MILPERSMAN 3860470. Eligibility MAY NOT be denied or revoked unless it resulted directly from fraud or misrepresentation on your part.”

On 14 February 1993, you and witness signed a Reserve Component Survivor Benefit Plan (SBP) (NRPC 1772/3) listing the following: Section II (Marital/Dependency Status) block 10 (Marital Status) Yes, block 11 (dependency Children) Yes. Section III (Coverage) block 12 (Options) Option B, block 13 (Type of coverage) Spouse and Child, block 13 (Level of Coverage) Full Retired Pay. Section V (Spousal Concurrence) signed by ██████.

On 26 January 1995, Commanding Officer, Commanding Officer, Naval Reserve Personnel Center notified you that, “[t]he Chief of Naval Personnel approved your request to transfer to the Retired Reserve under Title 10, U.S. Code, Sections 274 and 1376(a), and authorized your transfer to Retired Reserve status effective 1 January 1995.

Upon application per MILPERSMAN or BUPERSINST 1001.39A, you will be eligible for retired pay benefits under Title 10 U.S. Code, Chapter 67 at age 60.”

In accordance with DoD 7000.14-R FMR Volume 7B, Chapter 43, “Following Retirement (Retired Members) 4.4.2.1. A member with spouse or spouse and child coverage may, within 1 year of date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child...”

“Deemed Elections. Deemed elections are applicable in cases where a member enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide an SBP annuity to a former spouse, and such agreement has been incorporated in, ratified or approved by a court order, or has been filed with the court of appropriate jurisdiction in accordance with applicable state law. Deemed elections are also applicable in cases where the member is required by a 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 Department of Defense (DD) Form 2656-10SBP Former Spouse Request for Deemed Election, from a former spouse or the former spouse’s attorney on behalf of the former spouse. A copy of the pertinent court order or agreement referring to the SBP coverage must accompany the DD 2656-10. See subparagraph 4.4.3.1. Effective September 27, 2008, use of the DD 2656-10 to make a deemed election is mandatory.”

“6.0 CHANGES IN ELECTION AND COVERAGE. 6.1 Later-Acquired Spouse and/or Child. A member who acquires a new spouse and/or child after retirement must make an election within 1 year of the event with the exception that there is no time restriction on the election period for a change under subparagraph 6.1.2.5.”

“6.1.1. A member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may, upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not to have spouse coverage resumed. Unless a member elects not to cover the new spouse within 1 year after the marriage, spouse coverage automatically resumes at the first anniversary of the marriage.”

On 3 July 2003, The District Court of Douglas County, Nebraska issued a Property Settlement Agreement. “VII. RETIREMENT BENEFITS: ...The wife has a vested interest in "Fleet Reserve Pay Survivor Benefits," a military pension through the husband's active or reserve military duty, and the wife's vested interest in such benefits, as of the date of the dissolution of the marriage shall not be waived, relinquished nor in any manner affected by this Agreement or affected by the dissolution of the marriage of the parties...The wife shall be restored her maiden name of ██████████.”

On 30 July 2003, The District Court of ██████████ issued a Decree of Dissolution of Marriage. “The Court has examined the parties' Property Settlement Agreement, finds the same to be not unconscionable and each party shall be ordered and directed to carry out the terms of the Property Settlement Agreement, a copy of which is attached to this Decree and incorporated herein with the same full force and effect as if all terms of the Property Settlement Agreement were set forth separately in this Decree in their entirety.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the marriage of ██████████ and ██████████ which marriage was entered into on the 24th day of June, 1989 in ██████████ ██████████ is hereby dissolved; and that this Decree shall become Final and operative, pursuant to Neb. Rev. Stat. § 42-372 as follows:... terms of the Property Settlement Agreement were set forth separately in this Decree in their entirety...IT IS FURTHER ORDERED that the Property Settlement Agreement previously entered into by the parties on the 3rd day of July, 2003 which has been examined by the Court and found by the Court to be fair and reasonable and not unconscionable shall be and it hereby is approved..”

On 24 September 2006, you turned 60.

On 7 July 2007, you married ██████████.

On 16 January 2026, you and your current spouse signed a notarized SBP Affidavit indicating that you desired your SBP election to be changed to reflect Spouse only category SBP coverage. You indicated that you “received insufficient SBP information/counseling prior to my date of retirement.”

Defense Finance and Accounting Service (DFAS) HUNT system listed the following: CURR ELEC- SPOUSE DT 20060924, RCSBP OPT- DEFER RCV DT 19930214, ORIG ELEC- SPS & CHD DT 20060924, MONTHS PAID 231, COSTS SPOUSE 15.31, RCSBP 14.71, CURRENT COST 30.02, and CURRENT ANTNT [S.J.].

You requested to establish Survivor Benefit Plan (SBP) coverage for your current spouse. The Board, in its review of your entire record and your application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that, “[t]he record does not reflect the divorce between ██████████ and ██████████ nor the continued entitlement of benefits for ██████████ despite ██████████ subsequent remarriage.” The Board agreed that you divorced ██████████ on 30 July 2003. However, The Decree of Dissolution of Marriage incorporated the 3 July 2003, Property Settlement Agreement that stated in part, “[t]he wife has a vested interest in "Fleet Reserve Pay Survivor Benefits," a military pension through the husband's active or reserve military duty, and the wife's vested interest in such benefits, as of the date of the dissolution of the marriage shall not be waived, relinquished nor in any manner affected by this Agreement or affected by the dissolution of the marriage of the parties.” On 24 September 2006, you transferred to the Retired Reserve with pay and RCSBP and SBP premium deductions began, with your first spouse named the annuitant. You married your current spouse on 7 July 2007. The Board agreed that you were required to maintain former spouse coverage for ██████████ because her interest in RCSBP and SBP shall not be waived, relinquished, or affected by the dissolution of your marriage, therefore

approving your request to change your election to cover your current spouse would be inappropriate. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

2/2/2026

