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

[redacted]
Docket No. 9827-25
Ref: Signature Date

[redacted]

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 16 April 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.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

You requested to decline participation in the 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 outlines the requirements for SBP elections. Specifically, SBP elections must be made prior to retired pay becoming payable and the election to participate in (including automatic enrollment) or decline SBP is irrevocable. When the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, written notarized spouse concurrence is required. 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. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law.

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; when their disability rating remains 100% for at least 10-years (or 5-years from the date of retirement); or during an applicable open season. Previously paid premiums are not refunded. Pursuant to Public Law 117-263 § 643, enacted on 23 December 2022, a person participating in the SBP on the day before the first day of the open season were eligible to discontinue such participation during the open season. The open season was the period beginning on the date of the enactment of this Act and ended on 1 January 2024.

A review of your record indicates that at the time of retirement you were married with two children. Although you elected to decline participation in SBP coverage with notarized spousal concurrence prior to retirement, the DD Form 2656, Data for Payment of Retired Personnel was incomplete, thereby rendered invalid by Defense Finance and Accounting Service. As such you were automatically enrolled in SBP Spouse only coverage effective 1 December 2009. Thereafter, you and your third spouse entered into a Separation Agreement indicating, "In lieu of Life Insurance, the Husband shall maintain Wife as the survivor beneficiary of DFAS [Defense Finance and Accounting Service] pension" and divorced on 9 April 2021.

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 that you should have been reasonably aware that you were enrolled in SBP Spouse only coverage and had ample opportunity to terminate coverage in the voluntary discontinuation period of 25 to 36-months after retirement, subsequent to divorce and/or during the Fiscal Year 2023 open season. Furthermore, the Board resolved you received SBP coverage since 1 December 2009 and your beneficiary would have received an annuity if something happened to you during this time. Moreover, the Board found that it appears your third former spouse may be an authorized beneficiary for SBP based on the Separation Agreement that was incorporated into and made part of the Judgement of Divorce. Therefore, the Board determined that it would be inappropriate to go against the [redacted], the Trial Court, Probate and Family Court to authorize you to decline SBP coverage.

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,

5/6/2026

[redacted]