

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-02171

COUNSEL: None

HEARING DESIRED: No

JUL 31 1998

APPLICANT REQUESTS THAT:

His coverage under the Survivor Benefit Plan (SBP) be changed from spouse and child coverage to child only.

APPLICANT CONTENDS THAT:

He elected child only coverage prior to 1 November 1996. He was not told the paperwork had to physically be in prior to retirement on 1 November 1996.

In support of his request, he submitted two copies of DD Form 2656, a letter from the Survivor Benefits Plan Manager with a SBP Report on Individual Person (RIP) attached.

The applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The facts are adequately stated in the Air Force evaluation. Accordingly, there is no need to recite them here.

AIR FORCE EVALUATION:

The applicant attended an SBP pre-retirement briefing on 28 August 1996 and signed an SBP Report on Individual Person (RIP) acknowledging his responsibility to complete an SBP election, with his wife's concurrence prior to his 1 November 1996 retirement. He was notified that failure to do so could result in unwanted premium deductions. However, he did not make an SBP election prior to retirement and is contending that he wasn't told his election had to be turned in prior to retiring. Absent a valid election, the Defense Finance and Accounting Service (DFAS) established spouse and child coverage based on full retired pay to comply with the law. The petitioner had over two months before he retired during which he could have made an election and obtained his spouse's concurrence. There is no evidence of error or

injustice on the part of the Air Force in this case. Approval of this request would provide the applicant an opportunity not afforded other retirees and is not justified by fact or merit.

A complete copy of the evaluation is attached at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 30 March 1998 for review and comment within 30 days. As of this date, no response has been received in this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After thoroughly reviewing the applicant's submission and the evidence of record, we are not persuaded that the requested relief is warranted. There is no evidence to support the applicant's contention that he was not made aware that an his election had to be completed prior to his November 1, 1996 retirement. The SBP RIP he attached to his request clearly states that automatic maximum coverage provisions for the spouse will be implemented if there is no election submitted. We therefore agree with the recommendations of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has not been the victim of an error or an injustice. Therefore, we find no compelling basis to recommend granting the relief sought.

THE BOARD DETERMINES THAT:

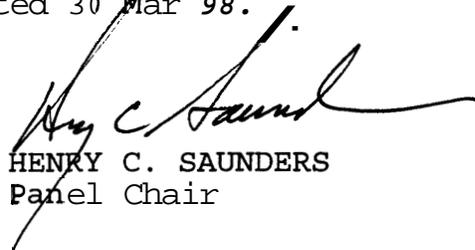
The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 16 July 1998, under the provisions of AFI 36-2603:

Mr. Henry C. Saunders, Panel Chair
Mrs. Barbara A. Westgate, Member
Mr. David C. Van Gasbeck, Member
Ms Kay Byrne, Examiner (without vote)

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 16 Jul 97, with atchs.
- Exhibit B. Letter, AFPC/DPPT, dated 9 Mar 98.
- Exhibit C. Letter, AFBCMR, dated 30 Mar 98.



HENRY C. SAUNDERS
Panel Chair