

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

FEB 24 1999

IN THE MATTER OF:

DOCKET NUMBER: 97-03450

COUNSEL: None

HEARING DESIRED: No

APPLICANT REQUESTS THAT:

Her records be corrected to show she declined Survivor Benefit Plan (SBP) coverage.

APPLICANT CONTENDS THAT:

She did have the five minute SBP briefing five months prior to actual retirement, but with all of the other things that you must do to out-process (different checklists), she did forget to go back to the SBP office and sign the form. If this would have been a part of routine out-processing, there would be no problem. She also contends that at each base there are only a limited amount of retirees each month, an extra effort should be made by the SBP office at each base to remind individuals that they have not completed the paperwork, if it is not incorporated as a part of routine out-processing. If the military expects full commitment from all members, then an effort must be made on the part of the military to take care of its people, no matter how small the effort. This seems like a pretty small request, especially in light of all the contributions that one makes in 20 years of service.

In support of the appeal, applicant submits a statement from her spouse stating he concurs with his wife's decision not to enroll in the SBP.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

Applicant was married when she retired from the Air Force effective 1 October 1997.

Applicant failed to complete the documents required to properly establish her retired pay account including the SBP election, prior to her retirement date. Consequently, the Defense Finance

and Accounting Service - Cleveland Center (DFAS-CL) established spouse coverage based on full retired pay to comply with the law.

When a member fails to complete an SBP election prior to retirement, coverage is established for all eligible beneficiaries by operation of law. Title 10 USC Section 1448 (a)(3) requires that the spouse of a married member must concur in any election that provides less than full spouse SBP coverage.

AIR FORCE EVALUATION:

The Chief, Retiree Services Branch, AFPC/DPTR, reviewed this application and states that the SBP counselor at Mountain Home AFB, ID reported she sent an SBP Report on Individual Person (RIP) to the member scheduling an SBP briefing for 11 April 1997. The member failed to appear and the counselor made numerous phone calls to the member, but received no response. Although the SBP counselor's role is to brief and assist the member in making an SBP election, it is ultimately the member's responsibility to ensure that all appointments are kept or rescheduled. There is no basis in the law to terminate her coverage as long as her beneficiary remains eligible. Approval of this request would provide the applicant an opportunity not afforded other retirees and is not justified. However, Public Law 105-85 (18 November 1997) will provide the applicant a one-year window (beginning on the second anniversary of her retirement) to terminate all SBP participation. The statement from the member's husband concurring in her election to decline coverage is inappropriate in that he does not clearly acknowledge retired pay ceases when the member dies, that he is currently eligible to receive approximately \$640 per month, and approval of the request would result in him receiving no monetary benefit from the Air Force in the event of the applicant's death. They recommend the requested relief be denied.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A complete copy of the Air Force evaluation was forwarded to the applicant on 30 March 1998, for review and response. As of this date, no response has been received by 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. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of the Air Force and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

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 27 October 1998, under the provisions of AFI 36-2603:

Mr. Henry C. Saunders, Panel Chair
Ms. Ann L. Heidig, Member
Mrs. Barbara A. Westgate, Member
Ms. Gloria J. Williams, Examiner (without vote)

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 6 November 1997, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, AFPC/DPPTR, dated 24 March 1998.
Exhibit D. Letter, AFBCMR, dated 30 March 1998.


HENRY C. SAUNDERS
Panel Chair