



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUL 20 1998

Office of the Assistant Secretary

AFBCMR 98-00351

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

E : [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Staff and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director of the Board or his designee.



Panel Chair

Attachment:
Ltr, AFPC/DPPTR, dtd 2 Jun 98



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

JUL 20 1998

AFBCMR 98-00351

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code, Air Force Instruction 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] b. corrected to show that on 24 September 1994 he elected under the Survivor Benefit Plan to change his coverage from "spouse coverage" to "former spouse coverage," based on full retired pay, and naming [REDACTED] as the eligible former spouse beneficiary, and former spouse coverage was suspended effective 1 March 1996 following her remarriage.

DONNA PITTENGER
Chief Examiner
Air Force Board for Correction
of Military Records



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

2 JUN 1995

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTR
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Reference: [REDACTED]

Requested Correction: The applicant is requesting corrective action to show he filed a timely election for former spouse coverage under the Survivor Benefit Plan (SBP) to comply with his divorce decree and to suspend coverage effective the date of his former spouse's remarriage.

Basis for Request: The applicant claims he was unaware of the requirement to change the SBP beneficiary from spouse to former spouse.

Background:

a. A spouse beneficiary loses eligibility to receive an annuity following divorce. However, the law provides two mechanisms for changing spouse coverage to former spouse coverage. Both must be exercised within the first year following divorce: the retiree may file an election change, or the former spouse may request the retiree be deemed to have made such a change on his or her behalf. In the latter case, the former spouse must provide legal documentation that the member agreed, or that the court ordered the member, to establish former spouse coverage. If neither the member nor the former spouse requests the election change during the one-year eligibility period, former spouse coverage may not be established thereafter. Even though a member fails to notify the Defense Finance and Accounting Service (DFAS) of the divorce and continues to pay SBP premiums afterwards, the former spouse is not eligible for annuity payments upon the member's death.

b. Court-ordered former spouse coverage may be terminated if the member obtains an amended court order that removes the requirement to provide former spouse coverage in order to provide coverage for a spouse. Former spouse coverage is suspended if the former spouse remarries before age 55, and costs cease effective the first day of the month after the month of remarriage. Eligibility and premiums are reinstated effective the first day of the month after the date the former spouse's remarriage terminates. If the member dies while the former spouse is ineligible, entitlement is reinstated in the event the disqualifying marriage subsequently terminates.

Facts: The member was married and elected spouse coverage, maximum annuity, prior to his 1 Feb 93 retirement. The parties divorced 23 Sep 94 and the divorce decree required SBP coverage be continued; however, neither the applicant nor his former spouse

9800351

submitted a valid election change during the required time limit. The applicant has not remarried; however, the former spouse remarried on 11 Feb 96 (prior to attaining age 55).

Discussion: Although the member made no election change during the required one-year time limit following divorce, there is no evidence that he requested DFAS terminate his former spouse's coverage. To deny the applicant's request for former spouse coverage would be to deny his former spouse an asset awarded her by the court

Recommendation: Although there is no evidence of Air Force error, to preclude a possible injustice, we recommend the member's record be corrected to reflect that on 24 Sep 94 he elected to change SBP spouse coverage to former spouse coverage based on full retired pay, naming [REDACTED] as the eligible former spouse beneficiary, and former spouse coverage was suspended effective 1 Mar 96 following her remarriage.



PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Mgmt

9800351