



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

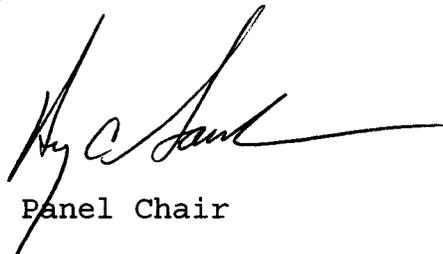
JUL 20 1998

AFBCMR 98-00375

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [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



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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] be corrected to show that on 30 September 1996 he elected under the Survivor Benefit Plan former spouse and child coverage based on full retired pay, naming [REDACTED] as beneficiary.

Donna Pittenger

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 1996

MEMORANDUM FOR AFBCMR

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

SUBJECT: Application for Correction of Military Records

Reference: 11

Requested Correction: The applicant is requesting corrective action to show he elected former spouse coverage based on full retired pay under the Survivor Benefit Plan (SBP) to comply with the court order.

Basis for Request: The applicant claims he was under the impression that because the divorce decree ordered former spouse SBP his former spouse was automatically enrolled.

Background: A spouse's eligibility to receive an annuity terminates upon divorce. However the law provides two mechanisms for changing spouse 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 the court ordered the member, to establish former spouse coverage. If neither the member nor former spouse requests the election change within the one-year eligibility period, former spouse coverage may not be established thereafter.

Facts: The member and former spouse were married on 1 Oct 76 and divorced on 28 Oct 94. The divorce decree incorporated a provision contained in the separation agreement that the retiree name his former spouse as the beneficiary of his SBP. However, the member retired effective 1 Oct 96 and elected child only coverage, rather than former spouse based on full retired pay.

Discussion: Even though the member failed to make a former spouse election at the time of retirement, to deny this request would be do deny his former spouse an asset awarded to 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 on

30 Sep 96 he elected former spouse and child coverage based on full retired pay, naming [REDACTED] s beneficiary. Approval should be contingent upon recoupment of any applicable premiums.



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