



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

OCT 23 1998

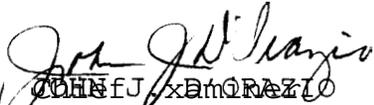
Office of the Assistant Secretary

AFBCMR 98-01424

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code and 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 5 October 1995, he changed his Survivor Benefit Plan (SBP) election from spouse and child coverage to former spouse coverage based on [REDACTED] as the former spouse beneficiary.

  
JOHN J. D'AMORE  
Chief Examiner  
Air Force Board for Correction  
of Military Records



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

OCT 28 1998

Office of the Assistant Secretary

AFBCMR 98-01424

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, HQ AFPC/DPPTTR, dtd Sep 2, 1998,  
w/Atch



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

MEMORANDUM FOR AFBCMR

2 SEP 1995

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

SUBJECT: Application for Correction of Military Records

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.

Basis for Request: The applicant claims no reasonable person would assume that the SBP beneficiary would change because of a divorce.

Background: A spouse loses eligibility to receive an SBP annuity upon divorce. However, the law provides two mechanisms for changing spouse to former spouse coverage. Both must be exercised within one year after 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 during the one-year eligibility period, former spouse coverage may not be established thereafter. Thus, even though a member may not have notified the Defense Finance and Accounting Service (DFAS) of the divorce and continued to pay premiums for spouse coverage after the divorce, the former spouse is not eligible for annuity payments upon the member's death.

Facts: The member elected spouse and child, maximum annuity, SBP coverage prior to his 1 Aug 77 retirement. The parties divorced on 4 Oct 95 and the court order required the member to maintain SBP coverage. Neither submitted a valid election change request, and premiums continued to be deducted from his retired pay until 6 Apr 98 when DFAS updated his record.

Discussion: Although the applicant and the former spouse failed to change SBP coverage during the required time limit, there is no evidence the member requested her coverage be terminated, indicative of his intent to maintain her as the eligible SBP beneficiary. To deny the request would be to 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 that on 5 Oct 95 he elected to change from spouse and child to former spouse coverage based on full retired pay, naming [REDACTED] as the eligible former spouse beneficiary. Approval should be contingent upon recoupment of all applicable premiums.

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

9801424