



DEPARTMENT OF THE AIR FORCE
WASHINGTON, D.C.

FEB 18 1999

Office of the Assistant Secretary
AFBCMR 97-02587

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code and **AFI 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] [REDACTED] be corrected to show that on 19 September 1986, he elected under the Survivor Benefit Plan to change his coverage from "former spouse" to "spouse," naming [REDACTED] as eligible spouse beneficiary, based on **full** retired pay.


DONNA PITTENGER

Chief Examiner
Air Force Board for Correction
of Military Records



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WASHINGTON, D.C.

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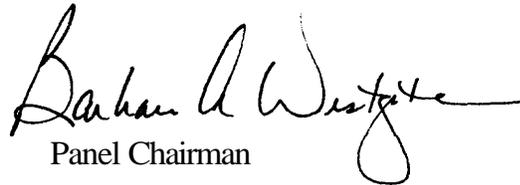
Office of the Assistant Secretary

AFBCMR 97-02587

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force 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 or his designee.


Panel Chairman

Attachments:

Ltr, DFAS-CL/FRAB, dtd 22 May 98
Ltr, AFPC/DPPTR, dtd 11 Jan 99



DEFENSE FINANCE AND ACCOUNTING SERVICE
CLEVELAND CENTER
PO BOX 99191
CLEVELAND, OH 44199-1126

(DFAS-CL/FRAB)

May 22, 1998

MEMORANDUM FOR AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

FROM: DEFENSE FINANCE AND ACCOUNTING SERVICE - CLEVELAND CENTER,
RETIRED PAY OPERATIONS
PO BOX 998004
CLEVELAND OH 44199

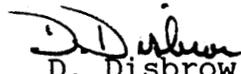
SUBJECT: Application for Correction of Military Records
[REDACTED]

1. Requested Action: [REDACTED], the widow of [REDACTED], requests that his coverage under the Survivor Benefit Plan (SBP) be changed from former spouse to spouse,

2. Basis for Request: [REDACTED] did, within one year of his marriage to her, attempt to change his coverage from former spouse to spouse.

3. Background: [REDACTED] made a voluntary election under the SBP to cover his former spouse. Within one year of his marriage to [REDACTED] he made an attempt to change the coverage, but, no action was taken on his request.

4. Recommendation: No objection would be offered to a correction showing that [REDACTED] submitted an election changing coverage from former spouse to his new spouse within the time frame permitted by Law.


D. Disbrow
Technical Branch
Retired Pay Operations



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

JAN 11 1999

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

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Requested Correction: The applicant, widow of the above-named retired member, is requesting corrective action that would entitle her to a Survivor Benefit Plan (SBP) annuity.

Basis for Request: The applicant claims the member tried to terminate former spouse SBP coverage and establish coverage for her after their marriage.

Background:

a. The law controlling the SBP allows a retired member to convert spouse SBP coverage to former spouse coverage within one year following a divorce. The election may be made voluntarily, to comply with the provisions of a divorce decree, or to honor an agreement not incorporated in a court order. The law also provides that a former spouse SBP election may be converted to coverage for a new spouse within one year of remarriage. The former spouse's concurrence is not required if the member's election was voluntary.

b. Former spouse SBP coverage is suspended if the former spouse remarries prior to age 55. Costs cease effective the first day of the month after the month of remarriage. If the member dies while the former spouse is ineligible, the former spouse will not receive the annuity; however, payments are re-instated in the event the disqualifying marriage subsequently ends.

Facts: The member was married and elected full spouse only SBP coverage when he applied for retired pay effective 22 Aug 73, his 60th birthday. That wife died on 13 Jun 79, he married Patricia on 12 Jun 80 and they divorced on 3 Mar 86. Although the court order contained the member's agreement to "maintain in full force and effect" several insurance policies on behalf of his former spouse, the language does not include a reference to the SBP. Nevertheless, the member voluntarily changed spouse coverage to former spouse coverage effective 1 Apr 86, naming [REDACTED] as the former spouse beneficiary. The applicant and the decedent married on 18 Sep 86 and the member notified the finance center (12 Nov 86) to discontinue former spouse SBP coverage, but failed to mention his remarriage. The finance center erroneously informed the member his request to discontinued former spouse coverage was invalid. The member died on 2 Jun 97 and, because the former spouse remarried prior to age 55, she is not currently entitled to the annuity. Subsequently, the member contacted the Defense Finance and Accounting Service - Cleveland Center (31 Dec 96), reiterating his desire to ensure his wife would receive an SBP annuity in the event of his death.

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Discussion: It is reasonable to conclude that the member would have complied with the one year time limit for submitting an SBP election for his new wife if the finance center had not erroneously advised him his request to terminate former spouse coverage was invalid.

Recommendation: We recommend the member's record be corrected to reflect on 19 Sep 86, he changed former spouse SBP coverage to spouse coverage based on full retired pay, naming ██████████ as the eligible beneficiary. Approval should be contingent upon recoupment of any applicable premiums.



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

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