RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2016-00529

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

1.  His retirement date from the Active Reserve be changed to 14 May 15.

2.  His desire not to participate in the Survivor Benefit Program (SBP) be honored.

APPLICANT CONTENDS THAT:

1. He had a two-year waiver to his maximum service retention date, which allowed him to stay in Active Reserve status until 14 May 15.

2. He completed the DD Form 2656, *Data for Payment of Retired Personnel*, as required, electing not to participate in the SBP. The form was faxed to Buckley AFB, CO on 1 Jun 15.

The applicant’s complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant served in the Air Force Reserve in the grade of colonel during the matter under review.

On 26 Nov 13, the Secretary of the Air Force Personnel Council (SAF/PC) denied the applicant’s request to be retained in active status, but approved his retention through 14 May 15.

On 14 May 15, the applicant was transferred to the Retired Reserve List awaiting the age of 60 to start drawing his retired pay.

The remaining relevant facts pertaining to this application are contained in the memorandum prepared by the Air Force office of primary responsibility (OPR), which is attached at Exhibit C.

AIR FORCE EVALUATION:

ARPC/DPTT recommends denial indicating there is no evidence of an error or an injustice. The applicant was notified to make his initial RCSBP election on 19 Jun 12. Due to his non-response and having eligible beneficiaries, Option C, “Immediate Annuity” for “Spouse and Child(ren)” was automatically elected, effective 13 Sep 12. When the applicant applied for retired pay on 29 May 15, he elected to decline the Survivor Benefit Plan (SBP). However due to the automatic RCSBP election of Option C already on record, he was unable to decline coverage. The applicant is not eligible to change his SBP election per Title 10, USC Subsection 1448(a) (4) (B), “Reserve-component annuity. — an election under paragraph (2) (B) is irrevocable if not revoked before the end of the 90-day period referred to in that paragraph.” The applicant can decline participation in the program within one year after making 24 months of SBP payments. Although we empathize with the applicant, we recommend denial of relief on his request to decline RCSBP coverage due to the automatic RCSBP election of Option C already on record.

The applicant’s request to change his retirement election date was not necessary as the system already reflected his retirement date as 14 May 15.

A complete copy of the ARPC/DPTT evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

In further support of his request, the applicant submitted a rebuttal response to the Air Force evaluation in which he takes exception to AFRC/DPTT’s comment that he was notified to make his initial RCSBP election on 19 Jun 13. He contends he was not notified. Further, he contends that the advisory writer did not provide any documentation which validates he was notified, and that lack of documentation implies there was not notification.

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 an 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 ARPC/DPTT and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the requested relief.

THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and 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 AFBCMR Docket Number BC-2016-00529 in Executive Session on 7 Mar 17 under the provisions of AFI 36-2603:

Panel Chair

Member

Member

The following documentary evidence was considered:

Exhibit A.  DD Form 149, dated 31 Jan 16, w/atchs.

Exhibit B.  Applicant's Master Personnel Records.

Exhibit C.  Memorandum, ARPC/DPTT, dated 15 Jun 16, w/atchs.

Exhibit D.  Letter, SAF/MRBR, dated 7 Sep 16.

Exhibit E.  Letter, Applicant, dated 3 Oct 16.

Pursuant to paragraph 1 of AFI 36-2603 (Title 32 Code of Federal Regulations, Part 865.1), it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.