



DEPARTMENT OF THE AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS  
WASHINGTON DC 20330-1430

AFBCMR 93-02170

137.04  
SEP 20 1993

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code and Air Force Regulation 31-3, 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 21 August 1987, he elected to change from Survivor Benefit Plan spouse coverage to former spouse coverage, based on a reduced annuity, [REDACTED] as beneficiary.

[REDACTED]  
Air Force Board for Correction  
of Military Records



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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 AFR 31-3, 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.

[REDACTED]  
Panel Chairman

Attachment  
Ltr, AFMPC/DPMARR3, dtd 15 Jul 93



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

15 JUL 1993

FROM: HQ AFMPC/DPMARR3  
550 C Street West Ste 11  
Randolph AFB TX 78150-4713

SUBJ: **Application for Correction of Military Records**  
( [REDACTED] )

TO: AFBCMR

- 1. Requested Correction:** The applicant requests his military record be corrected to reflect he filed a timely election to change from spouse to former spouse coverage, reduced annuity, under the Survivor Benefit Plan (SBP).
- 2. Basis for Request:** Applicant claims he had notified the finance center of his divorce and because he continued to see SBP premiums taken from his retired pay, he thought the SBP had been corrected.
- 3. Background:** The law controlling the SBP provides that a spouse's eligibility to receive an annuity terminates upon divorce. However, the law also provides two mechanisms for changing spouse coverage 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 former spouse coverage to be established. 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-Denver Center (DFAS-DE) of his divorce and continues to pay premiums for spouse coverage after the divorce, the former spouse is not eligible for annuity payments upon the member's death.
- 4. Facts:** The applicant married [REDACTED] on 26 Aug 63 and retired from the Air Force on 1 Jan 70. During SBP's initial open enrollment authorized by Public Law (PL) 92-425, he elected spouse only coverage based on a reduced level of retired pay. The applicant and [REDACTED] were divorced on 20 Aug 87. Shortly after the divorce, the member sent his marriage certificate and divorce decree to DFAS-DE and requested a division of retired pay under the Former Spouses Protection Act. DFAS denied his request in Oct 87 and returned his request without action. Neither the member nor his former spouse requested an SBP election change. Therefore, [REDACTED] became ineligible for an SBP annuity on the date of divorce. Neither the applicant nor his former spouse has remarried.
- 5. Discussion:** Even though the member did not elect to change from spouse to former spouse coverage, he did not request DFAS-DE to terminate existing coverage. Premiums continue to be deducted from his retired pay. When he learned his former spouse was not an eligible beneficiary, he took action to remedy the error. Member has indicated his willingness to repay the refunded premiums and any other debt he may incur as a result of corrective action.

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6. Recommendation: In the interest of justice, we recommend the member's record be corrected to reflect on 21 Aug 87 he elected to change from SBP spouse coverage to former spouse coverage, reduced annuity, naming [REDACTED] as beneficiary. Approval should be contingent upon the recovery of any retroactive costs that may be due.

[REDACTED]

Retirements Branch  
Directorate of Pers Program Mgt

1 Atch  
Case File

93-02170

ADDENDUM TO  
RECORD OF PROCEEDINGS -

The following members-of the Air Force Board for Correction of Military Records considered this case in Executive Session on 26 August 1993, in accordance with AFR 31-3 and 10 USC 1552:

[REDACTED] Panel Chairman

[REDACTED] Member

[REDACTED] Member

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