

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-00239

XXXXXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

His election of benefits under the Survivor Benefit Plan (SBP) be changed to show he made a timely election for spouse coverage.

### APPLICANT'S CONTENTIONS

He was not aware of the requirement to notify the Defense Finance and Accounting Service (DFAS) within one year of marriage for his wife to be eligible for SBP. After their wedding he enrolled his wife in the Defense Enrollment Eligibility Reporting System (DEERS) and got her an identification card, but thought that was all he had to do.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air Force Reserve lieutenant colonel (O-5).

On 25 Sep 07, ARPC/DPPR sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing him he has completed the required years under the provisions of Title 10 United States Code, Section 12731 (10 U.S.C. § 12731), and entitled to retired pay upon application prior to age 60. In addition, he was eligible to participate in the Reserve Component Survivor Benefit Plan (RCSBP).

According to PS Form 3811, *Domestic Return Receipt*, an RCSBP package was delivered to the applicant's address and was signed.

On 4 Jul 14, according to Reserve Order XX-XXXX, dated 21 Feb 14, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 13 Oct XX, according to a Certificate of Marriage, provided by the applicant, he married his current spouse.

On 4 Jun 23, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option C, *Previously elected or defaulted to immediate RCSBP Coverage*, and Option A, *I elect coverage for spouse only*.

On 2 Nov 23, according to Reserve Order XX-XXXXXX, dated 8 Nov 23, the applicant was authorized retired pay and placed on the United States Air Force Retired List.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

### AIR FORCE EVALUATION

ARPC/DPTT (Transition Division) recommends denying the application. All Reserve component service members who are eligible to participate in RCSBP, but who fail to make an election in the prescribed time will, by law, automatically have full, immediate RCSBP coverage for their dependent spouse and/or children, based upon dependents in the member's record in the Military Personnel Data System. The prescribed time limit for RCSBP election is before the end of the 90th day after the member receives notification of having completed the years of service to be eligible for non-regular retirement in accordance with 10 U.S.C. § 12731.

On 3 Jul 07, the applicant completed 20 satisfactory years of service; however, the RCSBP Notification of Eligibility takes approximately 120 days for members to receive as there is a delay in the Point Credit Summary to reflect 20 satisfactory years in the record. The applicant signed PS Form 3811 confirming receipt of his Notification of Eligibility; however, the applicant did not return the required documentation with his desired election within the 90-day timeframe prescribed by law. As a result, the applicant was automatically enrolled based on his eligible beneficiaries, which resulted in Option C, *I elect to provide an immediate annuity beginning on the day after date of my death regardless of age*, for child[ren] only coverage.

In accordance with DoD 7000.14-R, *Financial Management Regulation*, Volume 7B, Chapter 54, if a member elected to participate in RCSBP at Notification of Eligibility (i.e., elected Option B or C for a child or insurable interest), the member may elect to add spouse coverage to child coverage or terminate an insurable interest beneficiary coverage in favor of spouse coverage. The election must be made on DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, and received within one year of marriage. The level of coverage cannot be changed. The member is not required to have the concurrence of the new spouse to elect not to add spouse coverage. Failure to make the election within one year terminates eligibility for that spouse and any subsequent spouse.

On 13 Oct XX, the applicant married his current spouse; however, he failed to submit the required documentation within one year of marriage (13 Oct XX) as prescribed by law and is not eligible to change his election.

The complete advisory opinion is at Exhibit C.

## **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 3 May 24 for comment (Exhibit D) but has received no response.

## **FINDINGS AND CONCLUSION**

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/DPTT and finds a preponderance of the evidence does not substantiate the applicant's contentions. By law, the applicant had one year from the date of marriage to elect coverage for his spouse but failed to do so. Therefore, the Board recommends against correcting the applicant's records.

## **RECOMMENDATION**

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

## **CERTIFICATION**

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-00239 in Executive Session on 19 Jul 24:

, Panel Chair  
, Panel Member  
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 17 Jan 24.  
Exhibit B: Documentary Evidence, including relevant excerpts from official records.  
Exhibit C: Advisory, ARPC/DPTT, dated 17 Apr 24.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 3 May 24.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

**X**

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Board Operations Manager, AFBCMR