

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS**

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-01534

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

**APPLICANT'S REQUEST**

Her election of benefits under the Reserve Component Survivor Benefit Plan (RCSBP) be changed. Specifically, to decline participation in the RCSBP.

**APPLICANT'S CONTENTIONS**

She was stationed overseas when she applied for retirement and an RCSBP counselor was not available to guide her through the process. Despite researching the issue, she completed her DD Form 2656, *Data for Payment of Retired Personnel*, incorrectly and caused the system to default to coverage. It was not until she began receiving her retired pay (Dec 21) that she realized the error and the Defense Finance and Accounting Service (DFAS) sent her an email in Jan 22 stating so. She has contacted DFAS and the Air Reserve Personnel Center (ARPC) who directed her to the Air Force Board for Correction of Military Records.

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 1 Jan 12, according to Reserve Order **Work-Product**, dated 17 Oct 11, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 17 Mar 21, according to DD Form 2656, provided by the applicant, the applicant elected Option C, *Previously elected or defaulted to immediate RCSBP Coverage*.

On 2 Nov 21, according to Reserve Order **Work-Product**, dated 14 Oct 21, the applicant was authorized retired pay and placed on the USAF Retired List.

On 6 Jan 22, ARPC/DPTT sent the applicant the standard notification of eligibility (NOE) for retired pay (20-year letter) informing her that she 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, she was eligible to participate in the RCSBP and should receive detailed RCSBP information by certified mail within 60 days. The RCSBP information included instructions to reply within 90 days of receipt. The letter included an attachment with information on RCSBP and instructions to reply within 90 days of receipt.

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

## **AIR FORCE EVALUATION**

ARPC/DPTT recommends granting the application. All Reserve Component Service members who are eligible to participate in RCSBP but 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 (MilPDS). The prescribed time limit for RCSBP election is before the end of the 90th day after the Service member received notification of having completed the years of service to be eligible for non-regular retirement in accordance with 10 U.S.C. § 12731.

On 27 Sep 09, the applicant completed 20 satisfactory years of service. However, the RCSBP NOE, takes approximately 120 days for members to receive as there is a delay in the Point Credit Summary to reflect the 20 satisfactory years in record. There is no confirmation in the system of the applicant receiving her RCSBP NOE, which would have allowed her to make an election within the required timeframe of 90 days. The applicant's personnel record does not include a PS Form 3811, *Domestic Return Receipt*; DD Form 2656-5 *Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate*; and/or ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, that supports the NOE receipt or an RCSBP election. The applicant was erroneously enrolled based on their eligible beneficiaries in MilPDS, which resulted in Option A, *decline RCSBP election until age 60 for spouse coverage*, effective 23 Dec 09. Any member that does not have dependents at the time of eligibility and does not make an election within 90 days is automatically enrolled into Option A; however, there should not be any persons insured listed under this Option. Once an insured person is listed, it defaults to Option C, *immediate annuity upon death regardless of age*. The applicant was not married at the time of eligibility.

On 17 Mar 21, in preparation for commencement of retired pay, the applicant completed DD Form 2656, in conjunction with her retirement application. The applicant erroneously selected she was previously enrolled in Option C. The ARPC technician should have reviewed the DD Form 2656 and reported the error as the member was not previously under Option C.

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 20 Jul 22, 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 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 substantiates the applicant's contentions. Therefore, the Board recommends correcting the applicant's records as indicated below.

**RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that:

a. She elected Option A, *Previously declined to make an election until eligible to receive retired pay*, for her Reserve Component Survivor Benefit Plan (RCSBP) within 90 days of her Notification of Eligibility.

b. On 17 Mar 21, she elected not to participate in SBP and her spouse concurred with the decision.

c. She be authorized full reimbursement of all SBP premiums withheld from her retired pay.

**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-2022-01534 in Executive Session on 20 Apr 23:

- , Panel Chair
- , Panel Member
- , Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 27 May 22.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, ARPC/DPTS, dated 15 Jul 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 20 Jul 22

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.

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Board Operations Manager, AFBCMR