
RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02607

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

He erroneously elected to participate in the RCSBP.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve master sergeant (E-7).

On 31 Dec 12, according to Reserve Order **Work-Product**, provided by the applicant, dated 10 Aug 12, he was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List

On 14 Mar 22, according to DD Form 2656, *Data for Payment of Retired Personnel* provided by the applicant, he elected Option C, *Previously elected or defaulted to immediate RCSBP coverage*.

On 2 May 22, according to Reserve Order **Work-Product**, provided by the applicant, dated 10 May 22, he was authorized retired pay and placed on the USAF 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 (Transitions) recommends granting the application. The Survivor Benefit Plan (SBP) is administered pursuant to 10 U.S.C., Subchapter II, Chapter 73. SBP pays a monthly benefit to designated survivors of an eligible Service member or retiree. SBP, and the associated RCSBP program, allows service members and retirees to ensure their designated beneficiaries continue to receive an annuity in place of their retired pay after their own death.

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 (MilPDS). The prescribed time limit for RCSBP election is before the end of the 90th day after the service 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 21 Feb 12, 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 the 20 satisfactory years in record. There is no confirmation in the system of the applicant receiving his RCSBP Notification of Eligibility, which would have allowed him to make an election within the required timeframe of 90 days. The applicant's personnel record does not include PS Form 3811, *Domestic Return Receipt*, DD Form 2656-5, *RCSBP Election Certificate*, and/or ARPC Form 123, *RCSBP Election Certificate*, that supports the Notification of Eligibility receipt or an RCSBP election. The applicant was erroneously enrolled based on his eligible beneficiaries in MilPDS, which resulted in Option C, *Provide an immediate survivor annuity beginning on the day after death for spouse and child(ren)*, effective 21 Jun 06.

On 14 Mar 22 in preparation for commencement of retired pay, the applicant completed DD Form 2656. He erroneously selected that he previously elected RCSBP coverage option C, *Immediate coverage for spouse*, on DD Form 2656. When a service member acknowledges their RCSBP election in Section X, the following blocks, which are used to make an SBP election when there is no previous RCSBP election on file, are hidden from view.

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 14 Nov 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. He elected Option A, *Previously declined to make an election until eligible to receive retired pay*, for his RCSBP within 90 days of his Notification of Eligibility and his spouse concurred with the decision.

b. On 14 Mar 22, he elected not to participate in SBP and his spouse concurred with the decision.

c. He be authorized full reimbursement of all SBP premiums deducted from his 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-2022-02607 in Executive Session on 15 Jun 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 22 Sep 22.
Exhibit B: Documentary Evidence, including relevant excerpts from official records.
Exhibit C: Advisory, ARPC/DPTT, dated 3 Nov 22.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 14 Nov 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.

X

Board Operations Manager, AFBCMR