

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-02758

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### 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 completed the appropriate paperwork for RCSBP and elected to decline making an election until age 60. When she turned 60 and became eligible for retired pay, she elected not to participate in the Survivor Benefit Plan (SBP). However, premiums are being erroneously deducted from her retired pay.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air Force Reserve major (O-4).

On 24 Jun 04, ARPC/DPPR sent the applicant the standard notification of eligibility 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.

On 1 Jul 04, according to Reserve Order **Work-Product**, dated 15 Jun 04, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 13 Jul 04, according to PS Form 3811, *Domestic Return Receipt*, an RCSBP package was delivered to the applicant's address and was signed.

On 24 Oct 04, according to ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, the applicant elected Option A, *Decline to Make an Election Until Age 60*, and her spouse concurred with the decision.

On 21 Jan 21, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option A, *Previously declined to make an election until eligible to receive retired pay*, and Option G, *I Elect Not to Participate in SBP*, and her spouse concurred.

On 23 May 21, according to Reserve Order **Work-Product**, dated 7 Apr 21, the applicant 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 (Transition Division) recommends granting the application. SBP is administered pursuant to 10 U.S.C., Subchapter II, Chapter 73 and 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 18 Jun 04, the applicant completed 20 satisfactory years of service. On 24 Oct 04, the applicant completed ARPC Form 123 and elected Option A with spousal concurrence. When ARPC updated the member's election in MilPDS, it was incorrectly entered as Option A, *Spouse only coverage*. When adding the spouse coverage under Option A, it inaccurately read as Option C, *Immediate annuity upon death, spouse coverage*.

On 21 Jan 21 in preparation for commencement of retired pay the applicant completed DD Form 2656 in conjunction with her retirement application, electing not to participate in SBP with appropriate spouse concurrence.

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 9 Jan 23 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.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

## **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 RCSBP within 90 days of her Notification of Eligibility and her spouse concurred with the decision.

b. On 21 Jan 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-2022-02758 in Executive Session on 21 Sep 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 18 Oct 22.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: Advisory, ARPC/DPTT, dated 28 Dec 22.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 9 Jan 23.

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