

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02355

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

She deferred making an RCSBP election until she reached retired pay age. Upon retirement, she declined participation in the Survivor Benefit Plan (SBP); however, premiums are being unjustly deducted from her retired pay.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 26 Apr 06, 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.

On 10 Jun 06, according to ARPC Form 123, *Reserve Component Survivor Benefit Plan Election Certificate*, the applicant elected Option A, *I decline to make an election until age 60*, and indicated she was not married and had no children.

On 2 Jun 07, according to Reserve Order XX-XXXX, dated 9 Apr 07, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 6 May 22, 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 received retired pay*, and Option G, *I elect not participate in SBP*.

On 20 Jan 23, according to Reserve Order XX-XXXXXX, dated 18 Jan 23, 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. 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.

The applicant completed the required years of service to be eligible for non-regular retirement on 29 Sep 05, and received notification of RCSBP eligibility. On 10 Jun 06, she signed ARPC Form 123 electing Option A. The applicant was not married at the time of election and had no beneficiaries in MilPDS; however, system issues resulted in an erroneous election for spouse only coverage. On 6 May 22 in preparation for commencement for retired pay, the applicant completed DD Form 2656 declining participation in SBP.

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 6 Nov 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.

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.
- b. On 6 May 22, she elected not to participate in SBP.
- 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-2023-02355 in Executive Session on 28 Mar 24:

, 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 19 Jul 23.

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

Exhibit C: Advisory, ARPC/DPTT, dated 30 Oct 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 6 Nov 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.

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Board Operations Manager, AFBCMR