

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03738

XXXXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His record be changed to show he made a timely election for spouse and child[ren] coverage under the Survivor Benefit Plan (SBP).

APPLICANT'S CONTENTIONS

His SBP form was incorrectly marked for child[ren] only coverage and should have been marked for spouse and child[ren] coverage. He did not discover the error until he tried to change his beneficiary from his former spouse to his current spouse and was told he selected child[ren] only.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 26 Nov 13, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option C, *I elect coverage for child[ren] only*, based on full retired pay and his spouse concurred with the decision.

On 1 Apr 14, according to Special Order XX-XXXXXX, dated 1 May 13, the applicant retired from the Regular Air Force.

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

AIR FORCE EVALUATION

AFPC/DPFC (SBP Program) recommends denying the application. All retiring service members are required to attend a mandatory SBP briefing with a certified SBP counselor prior to the member's date of separation. The member and spouse, if applicable, receive individualized retired pay and SBP cost estimates. Once the member decides on an SBP election, the DD Form 2656 is completed with spousal concurrence, if applicable. An election, including changes in election coverage, can be made any time prior to the date of separation. In addition to completing the DD Form 2656, the service member signs the SBP Report of Individual Personnel (RIP) acknowledging they were briefed on the options and effects of SBP and received a detailed copy of the cost estimates. All original documents completed are sent to Automated Records Management System to be placed in the official personnel record.

The applicant and his then-spouse were briefed by a certified SBP counselor on 26 Nov 13, prior to his 1 Apr 14 retirement. He signed the SBP RIP acknowledging he received counseling and understood the options and effects of the plan. The applicant completed DD Form 2656 electing child[ren] only (spouse excluded) SBP coverage based on his full gross pay, with his spouse's notarized signature concurring with the election. Each also initialed the child[ren] only election in the remarks section, which makes the applicant's claim of an erroneous election without merit.

There is no evidence of an Air Force error or injustice and no basis in law to grant relief.

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 26 Feb 24 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence.

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 AFPC/DPFC and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant was counseled on the options and effects of SBP and made a valid election for child[ren] only coverage, and his spouse concurred with the election. The applicant failed to provide sufficient evidence his election is erroneous or unjust. Therefore, the Board recommends against correcting the applicant's records.

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 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 DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2023-03738 in Executive Session on 27 Jun 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 29 Oct 23.
Exhibit B: Documentary Evidence, including relevant excerpts from official records. Exhibit C: Advisory, AFPC/DPFC, dated 22 Feb 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 26 Feb 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

Board Operations Manager, AFBCMR