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

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RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01922

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: Work-Pr...

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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

After retiring from the Air Force Reserve in 2011, he was automatically enrolled in Option C of the Survivor Benefit Plan (SBP) without prior notification. He discovered the enrollment upon receiving a letter and attempted to correct it but was denied. As he prepared to receive his retirement pay, he was required to have his DD Form 2656, *Data for Payment of Retired Personnel*, reflect Option C, *Previously elected or defaulted to immediate RCSBP coverage*, for his children, who are now grown, independent, and estranged. He does not wish for his children to benefit from the SBP and wants the correction made to reflect his original intent of having no survivor benefit. In early 2012, he attempted to rectify the error, but the technician that helped him is now retired and he was informed it was not possible.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Reserve senior master sergeant (E-8).

On 11 June 2011, according to Reserve Order Work-Product, dated Work-Product, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List.

On 30 September 2011, the applicant logged into virtual Personnel Center (vPC) confirming he received his RCSBP NOE.

On 29 June 2012, according to the divorce decree, the applicant and his former spouse divorced.

On 22 October 2013, the applicant submitted a DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, requesting child(ren) only coverage.

On 13 September 2014, according to ARPC/DPTT, the applicant, married his current spouse.

On 19 July 2019, according to DD Form 2656, the applicant elected Option G, *I elect not to participate in SBP*.

AFBCMR Docket Number BC-2023-01922

Work-Product

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On 7 January 2022, ARPC/DPTT sent the applicant the standard Notification of Eligibility (NOE) for retired pay (20-year letter) informing him that he 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, he was eligible to participate in the RCSBP.

On 10 July 2023, according to Reserve Order **Work-Product**, dated **Work-Product**, the applicant was authorized retired pay and placed on the United States Air Force Retired List.

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

APPLICABLE AUTHORITY

10 U.S.C. § 1448(a)(2)(B). "Participants in the plan. The Plan applies to the following persons, who shall be participants in the Plan: ... Reserve-component annuity participants. A person who (i) is eligible to participate in the Plan under paragraph (1)(B), and (ii) is married or has a dependent child when he is notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve component retired pay, unless the person elects (with his spouse's concurrence, if required under paragraph (3)) not to participate in the Plan before the end of the 90-day period beginning on the date on which he receives that notification."

DoD 7000.14-R, *Financial Management Regulation*, Vol 7B, Chapter 540401. "Any member who is notified of his or her completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in RCSBP before the end of the 90-day period. A member who is married or has a dependent child, and who receives notice of eligibility for retired pay, after January 1, 2001, is automatically an immediate participant in RCSBP unless the member elects (with spousal concurrence, if required) not to participate or to defer the decision or delay coverage before the end of the 90-day period."

DoD 7000.14-R, Volume 7B, paragraph 540402. "A member electing to participate must designate an immediate election, a deferred election, or indicate a decision to delay the election until reaching retirement age. These are described as Options A, B, or C."

DoD 7000.14-R, Volume 7B, paragraph 540404. "Any Reserve member who does not have an eligible beneficiary when becoming eligible to participate in the RCSBP, who later marries or acquires a dependent child, may elect to participate in the RCSBP, if the election is completed within 1 year of acquiring a spouse or dependent child."

DoD 7000.14-R, Volume 7B, paragraph 540701. "Elections filed during the 90-day period referred to in paragraph 540401 are generally irrevocable unless revoked before the expiration of the 90-day period."

10 U.S.C. § 1448(a)(3)(B). "A married person who is eligible to provide a reserve-component annuity may not without the concurrence of the person's spouse elect (i) not to participate in the Plan; (ii) to designate under subsection (e)(2) the effective date for commencement of annuity payments under the Plan in the event that the member dies before becoming 60 years of age to be the 60th anniversary of the member's birth (rather than the day after the date of the member's death); (iii) to provide an annuity for the person's spouse at less than the maximum level; or (iv) to provide an annuity for a dependent child but not for the person's spouse."

AIR FORCE EVALUATION

ARPC/DPTT recommends denying 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. 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 Title 10, U.S.C., Section 12731.

On 1 April 2011, 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. The applicant logged into virtual Military Personnel Flight (vMPF) on 30 September 2011 confirming he received his RCSBP NOE. The applicant did not return the required DD Form 2656-5, *Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate*, with his desire to decline coverage in the 90-day timeframe as prescribed by law. The member was automatically enrolled based on his eligible beneficiaries, which resulted in Option C, I elect to provide an immediate annuity beginning on the day after the date of my death, whether before or after age 60, with the type of coverage, Spouse and Children, and level of coverage, Full Retired Pay.

On 29 June 2012, the applicant and his former spouse filed for divorce. The applicant did submit a DD Form 2656-6 on 22 October 2013 requesting child only coverage. However, the applicant was not eligible to change his RCSBP election because coverage is automatically suspended on the date of divorce. The applicant remarried on 13 September 2014, automatically resuming coverage for his new spouse.

In accordance with Department of Defense Instruction (DoDI) 1332.42 Section 4.4.(b)(1): "A covered participant with spouse or spouse and child coverage who does not have a current eligible spouse beneficiary (i.e., elected to participate in SBP or RCSBP but whose previous beneficiary is no longer eligible for reasons described in Paragraph 4.4.a.(3)) may, within 1 year of remarriage to a new spouse: (a) default to resuming the same level of coverage in effect before remarriage or (b) elect not to provide coverage for the new spouse.

The applicant did not submit a DD Form 2656-6, within 12 months of re-marriage therefore, the default spouse coverage was resumed for the current spouse.

In preparation for commencement of retired pay the applicant completed DD Form 2656 on 19 July 2022, in conjunction with his retirement application. At the time of completion, the applicant should have marked Option C in box 35 of the application. Reserve and Guard members that have a previous RCSBP election of Option C cannot make a new election on the DD Form 2656 in box 36. The DD Form 2656 is not a change of election form.

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 30 January 2024, for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.

2. The applicant exhausted all other available administrative remedies 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 ARPC/DPTT and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board finds no evidence of an injustice or error in the applicant's record to warrant granting relief. Therefore, the Board recommends against correcting the applicant's records.

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 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-2023-01922 in Executive Session on 24 October 2024:

Work-Product, Panel Chair
Work-Product, Panel Member
Work-Product, Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 2 June 2023.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, ARPC/DPTT, dated 19 January 2024.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 30 January 2024.

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.

9/28/2025

X

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Associate Director, AFBCMR

Signed by: USAF

AFBCMR Docket Number BC-2023-01922

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