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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-2024-00289

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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 add his spouse.

APPLICANT'S CONTENTIONS

His spouse did not consent to waive her Survivor Benefit Plan (SBP) on any government form. On the DD Form 2656, *Data for Payment of Retired Personnel*, particularly Parts III, IV, and V, she neither signed nor had a notary sign to waive her rights. The form was incorrectly processed, and she is entitled to receive SBP upon his retirement.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Reserve chief master sergeant (E-9).

On 11 February 2002, ARPC/DPPR sent the applicant the standard Notification of Eligibility (NOE) for retired pay (20-year letter) informing him 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 and should receive detailed RCSBP information by certified mail within 30 days.

On 19 April 2002, according to PS Form 3811, *Domestic Return Receipt*, an RCSBP package was delivered to the applicant's address and was signed.

On 30 March 2008, the applicant married his current spouse.

On 1 March 2022, according to DD Form 2656, the applicant elected Option A, *Previously declined to make an election until eligible to received retired pay*.

On 13 July 2022, according to Reserve Order Work-Product dated 9 August 2022, 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

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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*, Volume 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 1 January 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 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 one 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.”

AIR FORCE EVALUATION

ARPC/DPTT (Transition Division) 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 10 U.S.C., Section 12731.

On 29 November 2001, 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 their record. The applicant signed PS Form 3811 on 19 April 2002, confirming his NOE. An election was never submitted for RCSBP within the required 90 days after receiving NOE. Therefore, the applicant was automatically enrolled in Option C, *Immediate annuity upon death regardless of age for child(ren) only coverage*.

On 30 March 2008, the applicant married his current spouse. The applicant did not submit a DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, within one year of the life changing event.

In accordance with Department of Defense Instruction (DoDI) 1332.42, *Survivor Benefit Plan*, Section 4.4 (d)(1)(b): “A covered participant who did not have a spouse or former spouse when he or she was initially eligible to make an election to participate in SBP or RCSBP, who later marries, may elect within one year of marriage to cover the new spouse (coverage is not automatic).

(a) If there is no existing SBP or RCSBP beneficiary, the applicant may elect to cover the new spouse effective as of the date of the first anniversary of the marriage, with costs accruing as of the first anniversary of the marriage.

(b) If the previous election was for child SBP or RCSBP coverage, the applicant may elect to add spouse coverage, resulting in spouse and child coverage, with a recalculation of the premium effective as of the date of the first anniversary of the marriage.”

On 1 March 2022, in preparation for commencement of retired pay, the applicant completed DD Form 2656, in conjunction with his retirement application. At the time of completion, the applicant should have marked Option C in Block 33. Reserve and Guard members who have a previous RCSBP election of Option C cannot make a new election on the DD Form 2656. 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 3 May 2024 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 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. 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-2024-00289 in Executive Session on 19 July 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, dated 9 December 2023.

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

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Exhibit C: Advisory, ARPC/DPTT, dated 1 April 2024.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 3 May 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.

4/27/2025

X *Work-Product*

Board Operations Manager, AFBCMR

Signed by: *Work-Product*

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