



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00425

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His former spouse be named as his Reserve Component Survivor Benefit Plan (RCSBP) beneficiary.

APPLICANT'S CONTENTIONS

His RCSBP beneficiary should be "former spouse" in accordance with the divorce decree and court order.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving lieutenant colonel (O-5) in the Air National Guard (ANG).

On 20 Jul 21, according to the divorce decree provided by the applicant, he and his former spouse divorced. The Marital Settlement Agreement dated 25 May 21, states the applicant's former spouse shall receive and be awarded the SBP and shall be the irrevocable beneficiary. It was ordered the applicant immediately sign and deliver to his former spouse the DD Form 2656-1, *Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage*, and the DD Form 2656-5, *Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate*.

On 19 Sep 23, the applicant submitted a request to the AFPC Total Force Service Center (TFSC) for assistance in correcting his RCSBP election. On 15 Dec 23, the TFSC informed the applicant they were unable to update his election since it had been more than 12 months since his divorce. He was advised to submit an AFBCMR application for the correction of his records.

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

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Controlled by: SAF/MRB

Limited Dissemination Control: N/A
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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 Jan 01, 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 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.”

10 U.S.C. § 1448(b)(3)(A)(iii). “An election to convert spouse coverage to former spouse coverage, “must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.”

10 U.S.C. § 1450(f)(3)(C). If a court has ordered a service member to elect former spouse SBP, then a former spouse can submit his or her own request to DFAS for former spouse SBP coverage. This is known as a “deemed election request.” There is a time limit: “An election may not be deemed to have been made ... unless the Secretary concerned receives a request from the former spouse of the person within one year of the date of the court order or filing involved.”

DoD 7000.14-R, Volume 7B, paragraph 5408. “The Government does not subsidize the cost of providing RCSBP coverage under the immediate or deferred annuity option, but the members and beneficiaries who potentially will benefit from the coverage share the cost. The cost to the retiree, known as the Reserve Component Premium, is in the form of an additional deduction from his or her retired pay beyond the Standard Premium. The RCSBP, unlike SBP, requires a reduction in the survivor annuity. That reduction, known as the Survivor’s Annuity Premium Deduction, begins when the survivor begins to receive an annuity. The Reserve Component Premium and the Survivor’s Annuity Premium Deduction increase at the same time and by the same percentage that retired pay increases by cost-of-living adjustments.”

AIR FORCE EVALUATION

ARPC/DPTT (Transition Division) recommends denial. On 2 Nov 21 the applicant completed 20 years of service. On 9 Mar 22, the applicant logged into the virtual Military Personnel Flight

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(vMPF) confirming his receipt of the RCSBP Notification of Eligibility. The applicant did not return the required documentation with his desired election within the 90 day timeframe as prescribed by law and was automatically enrolled based on his eligible beneficiaries, which resulted in Option C (child only coverage). The applicant did not submit a DD Form 2656-5 requesting former spouse and child coverage within the required 90 day timeframe. In accordance with DoDI 1332.42, *Survivor Benefit Plan*, if a member does not make an election for former spouse coverage for a former spouse the member has at the time he or she becomes eligible to participate in SBP or RCSBP, the member cannot later make an SBP or RCSBP election for that former spouse.

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 1 Apr 24 for comment (Exhibit D). In an undated response, he requests the Board's assistance in complying with the court order. The timeline and events are not as simple as failing to have completed a task within a specified time. As stated, he had a 90 day window to complete his RCSBP enrollment. The 90 day window is very short when there are numerous life events occurring. During the period, he was a project officer required to travel on multiple overseas trips with no access to a military network due to security reasons. He and his two children also incurred a household move and moved into their new home in Apr 22. He also out-processed his old unit in Apr 22 and signed into his new unit. In May 22, he departed for a temporary duty (TDY) to Eastern Europe and access to a military network was extremely limited. Further, due to COVID-19, he experienced challenges with his work schedule and system access. The events created difficulty in accessing the military network, caused a distraction from his priorities and inhibited his ability to complete the RCSBP tasks within the short 90 day window. He has served for over 22 years. In countless situations, he has put service before himself and family. It is his hope the error can be fixed so he can be compliant.

The applicant's complete response is at Exhibit E.

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. The evidence clearly substantiates the applicant was properly made aware of the RCSBP Notification of Eligibility but did not make a timely election for former spouse RCSBP coverage within the timeframe as prescribed by law and as required by DoDI 1332.42. Moreover, while the Board recognizes the applicant's busy schedule and his service to the Air Force, the Board does not find it in the interest of justice to grant relief. 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

[REDACTED]

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-2024-00425 in Executive Session on 27 Jun 24:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 10 Jan 24.
Exhibit B: Documentary Evidence, including relevant excerpts from official records.
Exhibit C: Advisory, ARPC/DPTT, w/atchs, dated 26 Mar 24.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Apr 24.
Exhibit E: Applicant's Response, undated.

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 [REDACTED]

Board Operations Manager, AFBCMR

Signed by: [REDACTED]

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