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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-2024-00526

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: Work-...

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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 and be refunded all premiums paid.

APPLICANT'S CONTENTIONS

He was erroneously enrolled in the Survivor Benefit Program (SBP), even though he specifically declined this coverage upon retirement. After discussing the issue with the Defense Finance and Accounting Service (DFAS), he learned his DD Form 2656, *Data for Payment of Retired Personnel*, properly declined SBP. However, he was automatically enrolled in SBP because DD Form 2656-5, *Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate*, had not been properly submitted by the Reserve component. DFAS informed him that once the Reserve component submits his DD Form 2656-5, they can correct the error by disenrolling him from SBP and refunding the premiums. This corrective action is an administrative process that should have been completed by the Reserve component in December of 2014.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve colonel (O-6).

On 30 May 2007, 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 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 9 June 2007, according to PS Form 3811, *Domestic Return Receipt*, an RCSBP package was delivered to the applicant's address and was signed.

On 23 May 2019, according to DD Form 2656, the applicant elected Option G, *I elect not to participate in SBP*, and his spouse concurred with the election.

Instructions on DD Form 2656, Item 33, *Reserve Component Only*, reflect the following: (This section refers to the decision you previously made on the DD Form 2656-5 when you were notified of eligibility to retire, in most cases you do not have the right to make a new election on

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this form.) Reserve/Air National Guard members who achieve 20 qualifying years of service make the election to participate in RCSBP on DD Form 2656-5 within 90 days of being notified of eligibility for a non-regular retirement NOT when applying for retired pay, unless that member previously elected to defer coverage. You must indicate your previous election in Blocks 33a through 33c before proceeding to Block 34. If you previously elected Option B or Option C, DO NOT enter an election in Block 34. (Check only one in Block 33a through 33c.)

OPTION C – *Previously elected or defaulted to immediate RCSBP Coverage*, (Do not make an election in Block 34, you have already elected coverage.) **NOTE:** If you were married at the time you were notified of eligibility for non-regular retirement and did not complete DD Form 2656-5, you defaulted to full coverage under **OPTION C** – do not make an election in Block 34.

On 8 August 2019, according to Reserve Order **Work-Product** dated 3 September 2019, 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

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 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 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 applicant'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. § 12731.

On 1 March 2007, 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 signed PS Form 3811 on 9 June 2007 confirming he received his RCSBP NOE. Once signed, this automatically starts his 90-day period as prescribed by law to decline or change his coverage. The applicant did not return the requested DD Form 2656-5 with his desire to decline coverage within the 90-day period;

therefore, he was automatically enrolled based on his eligible beneficiaries, which resulted in Option C, (Immediate annuity upon death, regardless of age).

According to DoD 7000.14-R, “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.”

In preparation for commencement of retired pay, the applicant completed DD Form 2656 on 23 May 2019. At the time of completion, the applicant should have marked Option C in Block 33 of the application. Reserve and Guard members who have a previous RCSBP election of Option C cannot make a new election on DD Form 2656 in Block 34. 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 4 June 2024 for comment (Exhibit D) and the applicant replied on 28 June 2024. In his response, he contends he understands the recommendation from ARPC to mean that due to his failure to respond to the initial SBP request upon qualifying for retirement in 2007, he was automatically enrolled and is required to remain in the program indefinitely. This is despite his clear desire not to participate in SBP when he completed DD Form 2656 in 2019 and again when he requested removal from the Plan in 2023.

His wife signed for the RCSBP package in 2007, and he does not recall ever seeing the package. This is not surprising as he had merely reached eligibility for retirement but had no intention of retiring for another 5 to 7 years. Also, when the package arrived at his home in June, he was on temporary duty (TDY) assignment to Korea and preparing for a deployment in August. He was not focused on a lifetime financial decision. In contrast, in 2019 when he applied for retirement benefits, he completed DD Form 2656 declining SBP, and his wife signed the form concurring with the election not to participate. He questions ARPC/DPTT’s assertion that the DD Form 2656 is not an election form, pointing out that it includes an election section and was signed by both his spouse and a notary. He argues that if it were not an election form, such formalities would not be required. While SBP is valuable for many military retirees, it is not the most appropriate financial option for his situation, particularly since his wife is also an Air Force retiree. Neither elected to participate in SBP because they each have a pension. He expresses gratitude for consideration of this matter and requests the Board honor his clear intentions to terminate his participation in SBP.

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. Evidence suggests

the applicant was notified of his eligibility for RCSBP but failed to make an election in the 90-day period as required, and immediate spouse coverage was automatically established at the maximum level as prescribed by law. Unless revoked prior to the expiration of the period, voluntary elections and automatic enrollments made during the 90-day period are irrevocable. Members who previously elected or defaulted to immediate coverage in the Plan are not eligible to make a new election upon applying for retired pay. The Board took note of the applicant's entire submission, including his response to the advisory opinion, indicating he was TDY in Korea when the RCSBP materials were delivered to his home; however, he failed to provide sufficient evidence to substantiate this claim. 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-2024-00526 in Executive Session on 26 September 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 6 February 2024.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, ARPC/DPTT, dated 15 May 2024.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 4 June 2024.
- Exhibit E: Applicant's Response, dated 28 June 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.

9/3/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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