

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-00735

XXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### APPLICANT'S REQUEST

He be disenrolled from the Survivor Benefit Plan (SBP) and reimbursed paid premiums.

### APPLICANT'S CONTENTIONS

He recently retired and received a 100 percent disability rating from the Department of Veterans Affairs. He was not provided correct information about SBP, nor was he informed of associated costs and the inability to opt-out of the plan once he enrolled.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a disability retired Air Force staff sergeant (E-5).

On 13 October 2023, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option A, *I elect coverage for spouse only*, based on full retired pay.

On 8 December 2023, according to Special Order XXX-XXXXXX, dated 15 October 2023, the applicant was placed on the temporary disability retired list with a compensable percentage for physical disability of 70 percent.

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 (Casualty Sustainment) 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 separation. The member and spouse, if applicable, receive individualized retired pay and SBP cost estimates. Once the member decides on an SBP election, DD Form 2656 is completed with spousal concurrence, if applicable. An SBP election can be made any time prior to the date of separation to include changes in election coverage. In addition to completing DD Form 2656, the member signs the SBP Record of Individual Personnel (RIP) and acknowledges being briefed on the options and effects of SBP and receiving a copy of detailed cost estimates. All original completed documents are filed in the member's official Automated Records Management System record. An SBP election may not be arbitrarily terminated as long as the beneficiary remains eligible. However, Title 10 United States Code, Section 1448a(a), provides for a one-year period beginning on the 25th month and ending on the 36th month following commencement of retired pay, during which SBP participants may choose to voluntarily discontinue participation. If the retiree fails to exercise the dis-enrollment option during the one-year eligibility period, the SBP election is permanent and irrevocable as long as the beneficiary remains eligible.

On 13 October 2023, the applicant attended a one-on-one SBP briefing and signed the SBP RIP acknowledging he received counseling and understood the options and effects of the plan. On that same date, he completed DD Form 2656 electing coverage for his spouse based on full retired pay. The applicant's claim of being improperly counseled is without merit. He was provided more than enough information to make an informed decision. If he did not agree with any part of the SBP program, he had the option to change his election and/or decline SBP coverage, with spousal concurrence, during a nearly three-month period prior to retirement, but there is no evidence he elected either option. It would be an injustice to afford the applicant an opportunity to opt-out prior to the one-year termination period, an opportunity not afforded to other SBP participants. The applicant may terminate participation during the eligibility period (December 2025 to November 2026) by submitting DD Form 2656-2, *Survivor Benefit Plan (SBP) Termination Request*, to DFAS. 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 20 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 AFPC/DPFC and finds a preponderance of the evidence does not substantiate the applicant's contentions. 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 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-2024-00735 in Executive Session on 26 September 2024:

, Panel Chair  
, Panel Member  
, Panel Member

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

Exhibit A: Application, DD Form 149, dated 16 February 2024.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.  
Exhibit C: Advisory, AFPC/DPFC, dated 17 May 2024.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 20 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.

**X**

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Board Operations Manager, AFBCMR