

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01663

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

While out-processing for retirement, he was never properly counseled on SBP, nor was he provided the correct paperwork and given the opportunity to decline participation. The Defense Finance and Accounting Service (DFAS) automatically enrolled him in the plan at the spousal rate even though they were aware he did not have a spouse to benefit from the program. The local comptroller squadron failed to inform him of the requirements to opt-out of SBP. He spent the last nine months working with DFAS to submit the correct paperwork and receive a refund. However, he is still paying into SBP at the child rate but never wanted to participate in the plan.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force technical sergeant (E-6).

On 1 Jun 23, according to Special Order XX-XXXXXX, dated 16 Jun 22, the applicant retired from the Regular Air Force.

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 granting 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 SBP briefing provides information on the options and effects of SBP and is detailed on the SBP Report on Individual Personnel (RIP) provided to the member during the briefing. 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, *Data for Payment of Retired Personnel*, is completed. An SBP election including changes in election coverage can be made any time prior to the date of retirement. 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 disenrollment option during the one-year eligibility period, the SBP election is permanent and irrevocable as long as the beneficiary remains eligible. If a complete and valid DD Form 2656 is not submitted to DFAS prior to the retirement date, DFAS automatically enrolls the member in SBP.

On 1 Jun 23, the applicant retired, and DoD Person Search records show he was not married at the time of retirement but had a dependent child. The applicant attended a Pre-Separation Brief as well as a Transition Assistance Program briefing event where an SBP counselor briefs and

provides a fact sheet. After reviewing the applicant's official military personnel records in the Automated Records Management System, they discovered no SBP RIP or DD Form 2656 was uploaded. Additionally, the applicant was geographically separated from his assigned unit/base. His headquarters Separation and Retirement Section sent him an email notification requesting a time to complete his SBP briefing, but the applicant never responded and there were no follow-up or additional contact attempts noted. The applicant states he went to his local finance office for assistance and was provided inaccurate information. A DD Form 2656 was not submitted to DFAS prior to his retirement date, and he was automatically enrolled in the program. Although there was an attempt to contact the applicant by email, there is no evidence he received any of the emails or that he was officially notified of the requirement to complete SBP actions prior to his retirement date. The Air Force is required to ensure the member is provided the opportunity to be briefed on the options and effects of SBP. There is no evidence of an Air Force error; however, to preclude an injustice, they recommend granting the applicant's request.

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 6 Aug 24 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 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 substantiates the applicant's contentions. The applicant was never briefed on SBP and afforded an opportunity to make a valid election and was erroneously enrolled in the plan. Therefore, the Board recommends correcting the applicant's records as indicated below.
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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that:

- a. On 1 May 23, he submitted a timely and effective election not to participate in SBP.
- b. He be authorized reimbursement of all SBP premiums withheld from his retired pay.

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-2024-01663 in Executive Session on 26 Sep 24:

, Panel Chair
, Panel Member

, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, dated 6 May 24.

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

Exhibit C: Advisory, AFPC/DPFC, dated 2 Aug 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 6 Aug 24.

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

Board Operations Manager, AFBCMR