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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02090

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His election of benefits coverage under the Survivor Benefit Plan (SBP) be changed. Specifically, to convert his child(ren) only coverage to spouse and child(ren) coverage.

APPLICANT'S CONTENTIONS

At the time of his retirement, he was not married. He married his current spouse on 23 Jun 08 and contacted the Defense Enrollment Eligibility Reporting System (DEERS) office to make required and obtain a dependent identification card. He also reached out to the Defense Finance and Accounting Service (DFAS) and the Department of Veterans Affairs (DVA) and thought all was taken care of regarding SBP coverage for his spouse. He reviewed his monthly Retiree Account Statement (RAS) and noticed a statement which reads "NO SBP ELECTION IS REFLECTED ON YOUR ACCOUNT." Immediately, he contacted DFAS customer service and was informed he needed to submit a DD Form 149, *Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552*, for review to determine if his SBP election could be corrected. He was then informed that he should have notified DFAS within one year of his marriage. He thought this was accomplished but discovered recently it was not completed properly.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force master sergeant (E-7).

On 3 Aug 05, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option C (Coverage for Child[ren] Only) based on full retired pay. The applicant was unmarried at the time.

On 23 Jun 08, according to a Certificate of Marriage, provided by the applicant, he married his current spouse.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

AFBCMR Docket Number BC-2024-02090

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AFPC/DPFC (Casualty Matters Division) recommends denying the application. Chapter 73, Title 10 United States Code (U.S.C.), outlines the provisions of SBP which provides retiring service members the option to elect participation for their eligible spouse and/or children and pay the associated premiums to have coverage. All retiring service members are required to attend a mandatory SBP briefing with a certified SBP counselor prior to the member's retirement date. The member is provided an SBP Record of Individual Personnel (RIP), which reflects the options and effects of SBP as well as acknowledgement by the member that they understand the provisions of the SBP. In instances where the member is unmarried at retirement but has eligible children the member may elect coverage for child only or decline coverage altogether. However, the member does have the opportunity to cover the first new spouse acquired after retirement within the first year of that marriage. The member will complete the DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, or written statement and submit it to DFAS along with the marriage certificate prior to the one year anniversary of the marriage to elect coverage. If the member takes no action within the first year of the marriage, the spouse is no longer eligible for SBP coverage. The only opportunity to elect coverage beyond that one year is in the event there is a congressionally mandated open season that allows changes in category as directed within that law. There has not been an open season which fits the applicant's situation since Oct 05 to Sep 06. Open seasons are not predictable, nor should they be relied upon for neglected elections.

The applicant received his pre-retirement SBP briefing on 3 Aug 05, at which time he was provided with an SBP RIP outlining the details and impact of the SBP program and categories of coverage. During his briefing, he completed and signed the DD Form 2656, electing child(ren) only coverage; he was not married at the time of his retirement on 1 Jan 06. Included on the SBP RIP, the applicant was briefed that he may elect coverage for a future spouse and/or additional children but must submit an SBP election for these dependents within one year of acquisition. The applicant married his spouse on 23 Jun 08. The applicant stated he contacted DEERS, DFAS and the DVA to update the marriage in his records and secure benefits/entitlements for his spouse. The applicant falsely believed his actions would meet the requirements for making an SBP election for his spouse; however, the law requires a request be made in written form using DD Form 2656-6 with supporting documentation (marriage certificate). Beyond retirement, this information is provided via the bi-annual Afterburner, DFAS website, and Air Force retiree website. Additionally, upon request a retired service member may receive an RAS from DFAS annually, which reflects the SBP election made and any changes if there were updates to the election.

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 7 Aug 24 for comment (Exhibit D), and the applicant replied on 18 Aug 24. In his response, the applicant requested that the Board consider the totality of the circumstances, including a. His clear intent to provide for his spouse, as evidenced by his immediate action to update other benefits; b. His misunderstanding of the timeframe and process for updating SBP coverage; c. His confusion stemming from different reporting requirements for various benefits; d. His good faith efforts to update his records promptly after marriage; and e. The potential hardship his wife would face without SBP coverage. He also wants to emphasize that if the Board approves his request, he is fully prepared and willing to pay all applicable retroactive premiums as calculated by DFAS to ensure his wife receives this crucial benefit.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement.

2. The applicant exhausted all other available administrative remedies 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. The applicant failed to notify DFAS and elect SBP coverage for his spouse within one year of marriage as required by law. The Board notes the applicant did not provide any evidence nor was there any evidence in his record that confirms an error or injustice exist. 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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-02090 in Executive Session on 23 Jan 25:

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, w/atchs, dated 23 May 24.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, AFPC/DPFC, dated 6 Aug 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 7 Aug 24.
- Exhibit E: Applicant's Response, w/atchs, 18 Aug 24.

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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.

10/22/2025

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Associate Director, AFBCMR

Signed by: USAF

AFBCMR Docket Number BC-2024-02090

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