

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

JUN 16 1998

IN THE MATTER OF:

DOCKET NUMBER: 97-00262

COUNSEL: None

HEARING DESIRED: No

APPLICANT REQUESTS THAT:

Spouse and child coverage under the Survivor Benefit Plan (SBP) be terminated.

APPLICANT CONTENDS THAT:

He and his wife thought they were not applying for the SBP coverage. He did not know he was going to be charged for the SBP. He has insurance coverage. He submits a Retiree Account Statement showing an allotment for an insurance premium in support. This added insurance expense is causing an unexpected burden against their finances.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

Relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letter prepared by the appropriate office of the Air Force. Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

The Chief, Retiree Services Branch, HQ AFPC/DPPT, reviewed this appeal and states that applicant's claim that he did not know he was enrolled and that there would be a charge for the coverage cannot be substantiated. The SBP counselor reported the applicant attended her briefing in May 1996 and she provided a copy of the applicant's election, a worksheet used to compute the cost, and the Report of Individual Person (RIP). He was properly briefed, specifically about the cost associated with participation, and he made an informed decision. In addition, there is no basis in law to terminate coverage as long as the beneficiaries remain eligible. The author strongly recommends the relief be denied. A remedy is provided should the Board decide to grant relief,

which should be contingent on the wife's written concurrence in the termination of the coverage now in effect and she thereby forfeits any future claim to the SBP annuity.

A complete copy of the Air Force evaluation, with attachments, is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The Air Force evaluation was forwarded to the applicant on 14 July 1997 for review and comment within 30 days. His wife submitted a statement wherein she asserts she does not want, and never wanted, SBP coverage as she is already well-covered with life insurance.

The wife's statement is at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice to warrant terminating applicant's participation in the SBP. After a thorough review of the evidence of record and the applicant's submission, we are not persuaded that he has been the victim of either an error or an injustice. Applicant's contentions are duly noted; however, we do not find these uncorroborated assertions, in and by themselves, sufficiently persuasive to override the rationale provided by the Air Force. In fact, the available evidence clearly indicates that the applicant was counseled regarding the costs of participating in the SBP and he did elect to participate. We therefore agree with the recommendations of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has failed to sustain his burden that he has suffered either an error or an injustice. In view of the above and absence persuasive evidence to the contrary, we find no compelling basis to recommend granting the relief sought.
4. However, Public Law (PL) 105-85 (effective 17 May 1998) provides an opportunity for retirees to terminate participation in the SBP beginning on the second anniversary of their receipt of retired pay. There will be no refund of premiums paid into the program and the spouse's concurrence will be required. For

further information, applicant should contact the Retiree Services Branch (AFPC/DPPTTR) at 1-800-531-7502. (An extract of PL 105-85 is attached to the letter to the applicant.)

THE BOARD DETERMINES THAT:

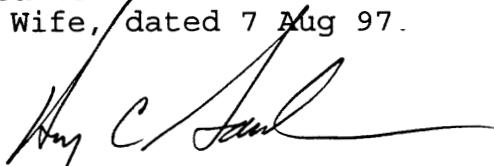
The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 21 May 1998, under the provisions of AFI 36-2603:

Mr. Henry C. Saunders, Panel Chair
Mrs. Barbara A. Westgate, Member
Ms. Ann L. Heidig, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 23 Jan 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPTTR, dated 30 Jun 97, w/atchs.
- Exhibit D. Letter, AFBCMR, dated 14 Jul 97.
- Exhibit E. Letter, Applicant's Wife, dated 7 Aug 97.



HENRY C. SAUNDERS
Panel Chair