

JUN 24 1998

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-00931

COUNSEL: None

HEARING DESIRED: No

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APPLICANT REQUESTS THAT:

He be allowed to participate in the Reserve Component Survivor Benefit Plan (RCSBP).

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APPLICANT CONTENDS THAT:

In the time period that the package was sent to him, he was in the process of relocating to another city for new employment. The package sent to him was misplaced and included with the boxes for moving. When he called the personnel office, he was informed that another package would be sent when he retired.

In support of his request, the applicant has submitted a supporting statement from the personnel office, a notification letter from Air Reserve Personnel Center (ARPC), a copy of Temporary Duty (TDY) orders and mail receipt showing package delivery date.

Applicant's complete submission is attached at Exhibit A.

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STATEMENT OF FACTS:

On 23 August 1996, applicant was provided a Notification of Eligibility for Retired Pay at age 60. This letter also advised applicant of his eligibility to elect coverage under the RCSBP. The letter indicated he would receive the information within 30 days and he had 90 days from receipt of the information to submit an election form.

On 16 September 1996, an RCSBP election package from the Air Reserve Personnel Center (ARPC) was received at his home and signed for by [REDACTED]. The election form was not returned within 90 days of receipt which is required by law. Applicant remains eligible to participate in the Survivor Benefit Plan when he reaches age 60.

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AIR FORCE EVALUATION:

The Directorate of Customer Assistance, ARPC/DR, reviewed the application and recommended denial. Air Force Reserve members do not receive a formal briefing prior to making an RCSBP election. They receive a package from the Air Reserve Personnel Center (ARPC) which covers all aspects of the plan. The applicant states that relocating to another city and being misinformed by a unit personnel office caused his delay in selecting an option. The cover letter of the package sent to the applicant, as well as two places in body of the package, informed the member there was a 90-day suspense for return of the election. Although the applicant may have provided an accurate account of the circumstances in his case, the requirement for the member to submit his RCSBP election within 90 days of receipt is clearly established by Title 10, US Code, Section 1448(a)(2)(B). The member remains eligible to participate in the SBP when he reaches age 60.

A complete copy of the evaluation is attached at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the evaluation and responded that he understands the review board is committed to the law within Title 10, USC and he is not denying that fact. However, he is trying to point out there was much confusion on his part as well as the agencies who advised him and this caused the misunderstandings which he feels should be considered. Reservists do a dual role and at times some situations may honestly occur for reasons beyond their control. The Review Board should honestly consider these cases because possible new ideas and process may generate from them. He feels he has provided proof to his circumstances and feel that they should be fairly considered.

Applicant's complete response is at Exhibit E.

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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. Applicant's contentions are duly noted; however, the requirement to submit his RCSBP selection within 90 days of receipt is clearly established by Title 10, US Code, Section 1448(a)(2)(B). Applicant was advised in August 1996 that he would be receiving RCSBP information within 30 days and of the requirement to submit an election within 90 days of receipt of this package. We

believe, as a senior non-commissioned officer, it was his duty to be more responsible about a program which would affect his family. In view of the foregoing, we find there is no basis to recommend granting the relief sought in this case.

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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.

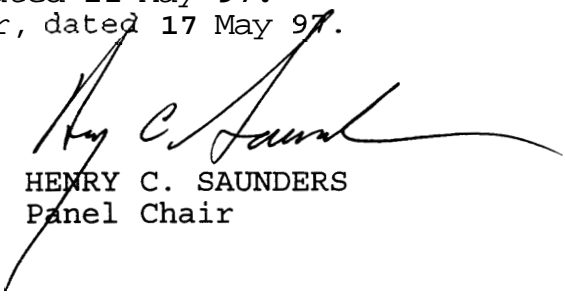
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The following members of the Board considered this application in Executive Session on 21 May 1998, under the provisions of AFI 36-2603 :

Mr. Henry C. Saunders, Panel Chair  
Mrs. Barbara A. Westgate, Member  
Ms. Ann L. Heidig, Member  
Ms Kay Byrne, Examiner (without vote)

The following documentary evidence was considered: --

- Exhibit A. DD Form 149, dated 14 Mar 97, with atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, ARPC/DR, dated 22 Apr 97.
- Exhibit D. Letter, AFBCMR, dated 12 May 97.
- Exhibit E. Applicant's Letter, dated 17 May 97.

  
HENRY C. SAUNDERS  
Panel Chair