



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JW 28 1998.

Office of the Assistant Secretary

AFBCMR 97-03484

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED] SSAN: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director of the Board or his designee.

Panel Chair
Panel Chair

Attachment:
Ltr, AFPC/DPPTR, dtd 12 Mar 98



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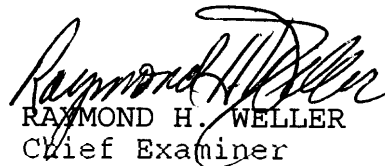
Office of the Assistant Secretary

AFBCMR 97-03484

MEMORANDUM FOR THE CHIEF OF STAFF.

Under the authority of Section 1552, Title 10, United States Code, Air Force Instruction 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that on 16 January 1991, he elected to change his Survivor Benefit Plan election from "spouse coverage" to "former spouse coverage" naming [REDACTED] as beneficiary, based on reduced annuity.

Handwritten signature of Raymond H. Weller in black ink.

RAYMOND H. WELLER
Chief Examiner
Air Force Board for Correction
of Military Records



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

12 MAR 1999

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTR
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Requested Correction: The applicant, son of the above-named retired member, is requesting corrective action to show that his father filed a timely election to **change** his Survivor Benefit Plan (SBP) **coverage** from spouse to former spouse based on a reduced level of retired pay, naming his mother as **beneficiary**.

Basis for Request: The applicant claims **his father** merely **neglected** to make the former spouse election, but intended SBP coverage to continue.

Backaround: A spouse's eligibility as a SBP beneficiary terminates upon **divorce**. However, the law provides **two** mechanisms for changing spouse coverage to former spouse coverage. Both **must** be exercised within **the first** year following **divorce**: the retiree **may file** an election change, or the former spouse **may** request the retiree be deemed to **have made such a change** on his or her behalf. In the latter case, **the** former spouse must provide legal documentation **that** the member **agreed**, or that **the** court ordered the member, to establish former spouse coverage. If neither the member nor **the former spouse requests** the **election** change during the **one-year** eligibility period, former **spouse coverage** may not **be** established thereafter. Even though a member fails to notify **the** Defense Finance and Accounting Service - Cleveland Center (DFAS-CL) of the divorce and continues to pay SBP premiums afterwards, the former spouse is not eligible for **an** annuity upon the member's death.

Facts: Records indicate the decedent and applicant's mother were **married** on 10 Sep 55 **and** that **he** elected reduced spouse SBP coverage prior **to** his 1 Aug 79 retirement. The parties **divorced** on 15 Jan 91, but the court order was silent **on** the issue **of SBP**. The member failed to submit a valid election to change to former spouse coverage during the time permitted by the law. **Neither** party **remarried** and SBP premiums continued to **be** deducted from **the** member's retired pay until **his** 23 Sep 97 **death**.

Discussion: Although the decedent **did** not make a **valid** election change, there **is** no evidence **he** requested coverage for his former spouse **be** terminated or question

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why SBP premiums continued to be deducted, indicative of his intent to maintain her as the eligible beneficiary.

Recommendation: There is no evidence of Air Force error; however, to preclude a possible injustice, we recommend the member's record be corrected to reflect that on 16 Jan 91, he elected to change SBP spouse to former spouse coverage based on a reduced level of retired pay, naming ██████████ as the former spouse beneficiary. Approval should be contingent upon recoupment of any applicable premiums.



PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Mgt