

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

DEC 4 1998

IN THE MATTER OF:

DOCKET NUMBER: 97-03771

[REDACTED]  
[REDACTED]  
COUNSEL: None

HEARING DESIRED: No

Applicant requests his Survivor Benefit Plan (SBP) coverage be terminated. Applicant's submission is at Exhibit A.

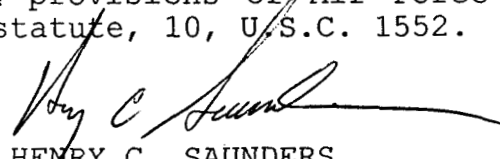
The appropriate Air Force office evaluated applicant's request and provided an advisory opinion to the Board recommending the application be denied (Exhibit C). The advisory opinion was forwarded to the applicant for review and response (Exhibit D). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinion appear to be based on the evidence of record and have not been rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record. Accordingly, applicant's request is denied.

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. For further information, applicant should contact the Retiree Services Branch (AFPC/DPPT) at 1-800-531-7502.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. Henry C. Saunders, Mrs. Barbara A. Westgate, and Ms. Ann Heidig considered this application on 27 October 1998 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.



HENRY C. SAUNDERS  
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinion
- D. AFBCMR Ltr Forwarding Advisory Opinion



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

4 MAY 1998

MEMORANDUM FOR AFBCMR

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

SUBJECT: Application for Correction of Military Records

Referen [REDACTED]

Requested Correction: The applicant is requesting corrective action that would permit him to terminate spouse only Survivor Benefit Plan (SBP) coverage. The member has provided a statement, signed by his wife in which she concurs in his request.

Basis for Request: The member claims he was in transition and was unable to make an election prior to his retirement.

Backaround: When the Defense Finance and Accounting Service - Cleveland Center (DFAS-CL) fails to receive a valid SBP election prior to a member's retirement, coverage is established for all eligible beneficiaries by operation of law.

Facts: The member was married and had eligible children when he retired from Charleston AFB SC effective 1 Jul 96. DFAS-CL did not receive documents necessary to properly establish his retired pay account (including an SBP election form); therefore, spouse and child coverage based on full retired pay was established to comply with the law.

Discussion: The member gives no reason why he waited for over 18 months to request correction of his record. His SBP coverage was established by DFAS-CL in compliance with the law, but could have been corrected administratively at the time of the alleged error had he made a timely inquiry and provided evidence of error. To provide relief now, based on the evidence submitted, would provide the applicant an opportunity not afforded other retirees and is not justified. However, Public Law 105-85 (18 Nov 97) will provide the applicant a one-year window beginning on the 25<sup>th</sup> month of retirement (1 Jul 98) to terminate all SBP participation.

Recommendation: There is no evidence of error or injustice on the part of the Air Force; therefore, we recommend that this request be denied. However, if the Board's decision is to grant relief, the member's record should be corrected to show on 30 Jun 96 he declined to participate in the SBP and his wife concurred in the election.

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

9703771