

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00113

COUNSEL: NONE

HEARING DESIRED: NO

THE APPLICANT REQUESTS THAT:

His Reserve Component Survivor Benefit Plan (RCSBP) premiums be stopped.

THE APPLICANT CONTENDS THAT:

When he filled out the paper work for this insurance, over 100 of them were brought into an auditorium and instructed as a group what to fill out on the insurance forms and he complied.

He does not believe he should have to continue to pay premiums since no one is eligible to collect the premium (annuity). Because of that, he feels he is paying for no reason. He contacted the Defense Finance and Accounting Service (DFAS) and they advised him if he died tomorrow no one is eligible to collect; therefore, he is paying for no reason.

In support of his appeal, the applicant provides copies of his RCSBP bill and a letter from DFAS, dated 18 Oct 11.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The 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 Reserve.

THE AIR FORCE EVALUATION:

ARPC/DPP recommends denial. The applicant was informed of the SBP disenrollment process based on his signature of concurrence on the DD Form 2656, *Data for Payment of Retired Personnel*. Discontinuing the RCSBP program does not stop the Reserve Component portion of the Plan. The Reserve portion is for coverage before age 60. The reduction in retired pay is calculated so that the premiums for the RCSBP coverage are paid over the course of the member's lifetime as actuarially determined under the authority of Title 10 Section 1452 (a) (1)(B). However, if the decision is to grant the relief sought, the member's DFAS pay record should be corrected to show that he elected to not participate in the SBP effective 22 May 2010 and also with the understanding that the member is still responsible to pay for the Reserve portion of the coverage.

In addition, according to their records, the member completed 20 years of satisfactory service on 11 Mar 03. He was notified of his eligibility to participate in the RCSBP on the same date. The member filled out an ARPC Form 123, *RCSBP Certificate*, which reflects his election of immediate annuity for child based on full retired pay on 28 Mar 03.

The applicant was sent a letter notifying him that he was eligible to apply for Reserve retired pay on his 60th birthday, 22 May 08. Included with the letter was some general information on retired pay, the appropriate pay application forms, and information regarding his current RCSBP election. When the member filled out his application for retired pay DD Form 2656, he changed his election from child only to declining participation with eligible dependents. According to Title 10, U.S.C., Section 1448 (4) (8) an election to participate in the Plan is irrevocable if not revoked before the end of the 90-day period.

The member was afforded an opportunity to discontinue his Survivor Benefit Plan (SBP) election after the second anniversary of commencement of payment of retired pay. He concurred with a signature that verified his understanding of this option. DD Form 2656, Section XII, Item 32, second paragraph reads "Also, I have been counseled that I can terminate SBP participation, within one year after the second anniversary of commencement of retired pay. However, if I exercise my option to terminate the SBP, future participation is barred.

The complete ARPC/DPTTE evaluation, with attachments, is at Exhibit C.

APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 1 Mar 11 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit D).

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, the Air Force Reserve office of primary responsibility has conducted an exhaustive review of the available evidence and we are in agreement with their opinion and recommendation. Therefore, we adopt the rationale expressed as the basis for our conclusion the applicant has not been the victim of an error or injustice. The applicant feels that he should not have to pay for SBP premiums since there is no eligible beneficiary and alleges he was miscounselled. However, we would note that the applicant is paying for the cost of coverage on a deferred basis and that he did in fact have an eligible dependent beneficiary during the period of the coverage. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and 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 AFBCMR Docket Number BC-2012-00113 in Executive Session on 18 July 2012, under the provisions of AFI 36-2603:

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 28 Dec 11, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, ARPC/DPTTE, dated 13 Feb 12, w/atchs.
- Exhibit D. Letter, SAF/MRBR, dated 1 Mar 12.

Panel Chair