

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00114

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His records be corrected to show he made a valid Reserve Component Survivor Benefit Plan (RCSBP) election adding his spouse as a beneficiary.

APPLICANT CONTENDS THAT:

He did not receive a retirement briefing or documentation from his unit prior to his final separation from the Pennsylvania Air National Guard (PAANG) and was unaware of the 12 month requirement for changes to RCSBP. He was under the impression he could make changes to his RCSBP account at any time until he began collecting retirement benefits at age 60. In Jun 10, he attempted to add the current spouse he married in 2008 and he assumed his election was executed as he was not notified otherwise.

In support of his appeal, the applicant provides a personal statement and copies his marriage license to his current spouse and a fax transmittal sheet.

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

STATEMENT OF FACTS:

The applicant was notified of his eligibility to participate in the RCSBP on 23 Jan 95 via certified mail. He made an election for Option C, "Immediate" annuity based on full retired pay for Children Only.

With regard to his attempt to add his spouse to his RCSBP, Title 10, United States Code (U.S.C.) § 1448(a)(5)(B) states "Such an election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date on which that person marries or acquires that dependent child."

AIR FORCE EVALUATION:

ARPC/DPTTE recommends denial indicating there is no evidence of an error or injustice. They have no record of receiving a facsimile from the applicant and even if they had, he did not elect to add his spouse within the one year window as prescribed by Title 10, U.S.C. § 1448(a)(5)(B).

In view of the fact the applicant is eligible for retired pay at age 60, his spouse is eligible for an ID card, Base Exchange, and commissary privileges. Additionally, on the applicant's 60th birthday, both he and his spouse will be eligible to apply for medical and dental benefits through the TRICARE program.

A complete copy of the ARPC/DPTTS evaluation, with attachments, is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant essentially reiterates his assertion that he had no way of knowing that he needed to make an election for spouse coverage within a year of his marriage. Additionally, he changed addresses during the matter under review and it is possible that AFPC sent any such information to his previous address, even though he submitted a change of address notice to them.

The applicant's complete response 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 error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of the Air Force office of primary responsibility (OPR) and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. In response to the Air Force OPR evaluation, the applicant raises the possibility that his change of address somehow could have caused any notification related to the requirement to elect spouse coverage within a year of marriage to be mailed to the wrong address; however, we do not find this a persuasive argument and note the notification memo he received in 1995, which formed the basis of his election for child only coverage under the RCSBP, contained information on the requirement to elect spouse coverage within a year of marriage. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

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-2012-00114 in Executive Session on 25 Oct 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 10 Jan 10 (sic), w/atchs.
- Exhibit B. Letter, ARPC/DPTTE, dated 13 Feb 12.
- Exhibit C. Letter, SAF/MRBR, dated 1 Mar 12.
- Exhibit D. Letter, Applicant, undated.

Panel Chair