

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00286  
COUNSEL: NONE  
HEARING DESIRED: NOT INDICATED

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APPLICANT REQUESTS THAT:

His record be corrected to show he declined Survivor Benefit Plan (SBP) coverage.

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APPLICANT CONTENDS THAT:

He and his wife declined coverage when they completed the DD Form 2656, *Data for Payment of Retired Personnel*, in August 2008.

In support of his appeal, the applicant provides copies of his DD Form 2656 and Divorce Decree.

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

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STATEMENT OF FACTS:

The Defense Enrollment Eligibility Reporting System (DEERS) reflects the applicant and his former wife were married on 15 May 2008. At that time, the applicant acquired sponsorship of his spouse's three minor children. On 21 June 2008, the applicant was placed on the Temporary Disability Retired List (TDRL); however, he was not briefed on the options and effects of the SBP until 28 August 2008. The applicant's election to decline SBP coverage and his wife's concurrence, are dated 29 August 2008, after the effective date of his retirement. Therefore, the Defense Finance and Accounting Service (DFAS) established full spouse and child coverage as required by law. The applicant was transferred from the TDRL to the Permanent Disability Retired List (PDRL) effective 11 July 2011.

The remaining relevant facts are contained in the letter prepared by the Air Force office of primary responsibility (OPR) at Exhibit B.

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AIR FORCE EVALUATION:

AFPC/DPSIAR recommends approval. DPSIAR indicates that they cannot determine why the applicant was not properly out-processed

before his retirement consummated. The applicant has notified DFAS of his divorce; therefore, DFAS has suspended the spouse's portion of SBP coverage and established child only coverage. Nevertheless, the notification of divorce does not void the retroactive SBP premium debt of approximately \$3,900 which has accumulated since he was placed on the TDRL.

DPSIAR indicates that since there is a possibility of Air Force error in this case, they recommend the applicant's record be corrected to reflect he declined SBP coverage effective 21 June 2008.

The complete DPSIAR evaluation is at Exhibit B.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

When he was placed on the TDRL, he was never told nor did he have an appointment for SBP counseling. He never authorized SBP coverage and has been fighting it ever since. As of 30 June 2009, he has a son. He wants his former spouse dropped from his SBP and is willing to pay for his son's coverage since 30 June 2009. In addition, he would like any debt from his former wife's coverage to be reversed along with any accumulated interest. He would like to keep his son on SBP coverage since he is already enrolled for \$15.06 per month. He will pay back all payments on his son but would appreciate the interest taken off because of the unreasonable length of time this correction to his record has taken. He has been fighting this for four years now.

The applicant's complete rebuttal, with attachment, is at Exhibit D.

**EXAMINER'S NOTE:** *On 31 October 2012, the applicant clarified via telephone contact that his amended request (rebuttal letter) should not be considered since he has decided to leave his original request unchanged.*

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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 not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice. Having carefully reviewed this application, we agree with AFPC/DPSIAR that since there is a possibility of Air Force error in this case; the applicant's record should be corrected to reflect he declined SBP coverage effective 21 June 2008. We believe the

evidence is sufficient to find it in the interest of justice to correct the record as indicated below.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 20 June 2008, he declined coverage under the Survivor Benefit Plan.

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The following members of the Board considered AFBCMR Docket Number BC-2012-00286 in Executive Session on 27 November 2012, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

All members voted to correct the record as recommended. The following documentary evidence for AFBCMR Docket Number BC-2012-00286 was considered:

- Exhibit A. DD Form 149, dated 10 Feb 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSIAR, dated 22 Mar 12.
- Exhibit C. Letter, SAF/MRBR, dated 2 Apr 12.
- Exhibit D. Letter, Applicant, dated 22 Aug 12, w/atchs.

Panel Chair