

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00291

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His records be changed to show that he included his wife of 16 years as the beneficiary on his Reserve Component Survivor Benefit Plan (RCSBP) in 1996.

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APPLICANT CONTENDS THAT:

When he retired in March 1995 he was divorced and elected child only RCSBP coverage. He remarried in December 1995 and called the entitlements section in 1996 and elected spouse coverage for his new wife. He filled out the proper paperwork and sent it in along with a copy of his marriage license and military identification card. This is not his fault. He took care of this when he was supposed to.

He was diagnosed with cardiomyopathy (condition of enlarged heart) in July 2000 but continued to work until 2009. He called the Headquarters Air Reserve Personnel Center (ARPC) to inquire about receiving his retirement pay before age 60 due to disability and discovered his spouse was not named as the RCSBP beneficiary. The corrections department mailed the election forms to him and he filled them out and returned them along with a personal letter dated 4 January 2010.

In support of his request, the applicant provides copy of his marriage license and military identification card. Not listed on the DD Form 149 but included in the application package is the 4 January 2010 personal letter.

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

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STATEMENT OF FACTS:

Information submitted by the applicant reflects he retired from the Air National Guard in March of 1995.

AIR FORCE EVALUATION:

ARPC/DPTT recommends denial. DPTT states the applicant was sent a letter via certified mail on 25 May 1994 that explained the RCSBP process. The applicant was not married at the time and he made an election for Option C, "Immediate Annuity for Children Only" effective 10 September 1994.

On 15 December 1995, the applicant married his current spouse. Neither the applicant nor his spouse notified HQ ARPC regarding their marriage within one year of the marriage as required by law. According to Title 10, USC, Section 1448 (3) (A) (iii), any such election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date of event. The RCSBP package sent to the applicant in 1994 stated that any life changing events must be reported to ARPC within one year of the event.

The applicant states that he notified HQ ARPC of his marital status change on 18 November 1996. He acknowledged that he provided his spouse's information and completed the proper paperwork for update. They have no record on file of the applicant contacting HQ ARPC within the designated time after the marriage.

The complete ARPC/DPTT evaluation, with attachments, is at Exhibit B.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 27 March 2012 for review and comment within 30 days (Exhibit C).

The applicant's spouse notified HQ ARPC that the applicant died on 22 February 2012 (Exhibit D).

A copy of the Air Force evaluation was forwarded to the applicant's spouse on 25 September 2012 for review and comment within 30 days (Exhibit E). To date, this office has not received a response.

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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. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice warranting corrective action in regard to the applicant's election of Reserve Component Survivor Benefit Plan, spouse coverage. 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 and adopt its rationale as the basis for our conclusion that neither the applicant nor the spouse submitted a valid election within the one-year period required by law to establish spouse 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 that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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The following members of the Board considered this application BC-2012-00291 in Executive Session on 21 September 2012, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149 dated 4 January 2012, w/atchs.
- Exhibit B. Letter, ARPC/DPTT, dated 13 March 2012, w/atchs.
- Exhibit C. Letter, SAF/MRBR, dated 27 March 2012.

Panel Chair