

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00395  
COUNSEL: NONE  
HEARING DESIRED: YES

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APPLICANT REQUESTS THAT:

Her deceased spouse's record be changed to show he elected spouse and child coverage under the Reserve Component Survivor Benefit Plan (RCSBP).

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APPLICANT CONTENDS THAT:

She believes her spouse did report their marriage and changed the election form because he instructed her to set things up a certain way.

In support of the applicant's appeal, she provides a personal statement, marriage certificate, special and general power of attorney, medical documentation, death certificate, and other documentation.

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

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STATEMENT OF FACTS:

The decedent was notified of his eligibility to participate in the RCSBP via certified mail. The election package was sent to the decedent's address and was signed for on 23 June 2006. The decedent made no election during that time and was automatically enrolled in Option C, "Immediate Annuity for Children Only" effective 23 September 2006.

The decedent and the applicant married on 28 October 2006.

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AIR FORCE EVALUATION:

ARPC/DPTT recommends approval based on the information provided and the applicant's state of mind as a result of his medical condition.

On 28 October 2006, the former service member married but did not notify this office regarding the marital status change within one year as required by law. According to Title 10, U.S.C., 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 member stated that any life changing events must be reported to this office within one year of the event.

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

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 27 March 2012, a copy of the Air Force evaluation was forwarded to the applicant for review and response within 30 days (Exhibit C). As of this date, no response has been received by this office.

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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 timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of an injustice. We took notice of the applicant's complete submission in judging the merits of the case and agree with the recommendation of ARPC/DPTT. A preponderance of the evidence provided supports that the applicant's medical condition more likely than not caused him not to report his marriage to ARPC within one year as required by law. As such, we believe the evidence is sufficient to find it in the interest of justice to correct the record. Therefore, we recommend that the records be corrected 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 28 October 2006, he elected full and immediate coverage for spouse and child under the Reserve Component Survivor Benefit Plan (RCSBP) naming XXXXXXX as the spouse beneficiary.

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The following members of the Board considered AFBCMR Docket Number BC-2012-00395 in Executive Session on 27 November 2012, under the provisions of AFI 36-2603:

All members voted to correct the records, as recommended. The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00395 was considered:

- Exhibit A. DD Form 149, dated 1 February 2012, w/atchs.
- Exhibit B. Letter, AFPC/DPTT, dated 2 March 2012, w/atchs.
- Exhibit C. Letter, SAF/MRBR, dated 27 March 2012.