

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00943

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His records be corrected to reflect he elected not to participate in the Survivor Benefit Plan (SBP).

APPLICANT CONTENDS THAT:

He checked the wrong box on the AF Form 2656 by mistake because he thought it was the box to indicate he was electing not to participate in SBP. Box 26g says "I elect not to participate in SBP." He checked the box to the right of box 26g instead of the box to the left. He did not check any box that indicated he was electing coverage for anyone, and did not select a level of coverage in Section 27 because he never intended to participate in the SBP. However, SBP costs are currently being deducted from his retired pay.

In support of his request, the applicant provides an expanded statement and a copy of his DD Form 2656, *Data for Payment of Retired Personnel*.

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

STATEMENT OF FACTS:

The relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air Force, which is attached at Exhibit C. Therefore, there is no need to recite these facts in this record of proceedings.

AIR FORCE EVALUATION:

ARPC/DPTT recommends the applicant's records be corrected to show that he declined coverage under the RCSBP on 5 Aug 02. The applicant was notified of his eligibility to participate in the

Reserve Component SBP (RCSBP) on 5 Aug 02, but he made no election during the allotted time. IAW Title 10 U.S.C. § 1448, he should have been automatically enrolled in Option C, "immediate annuity for spouse and children." This action was inadvertently not accomplished by Air Force Reserve Headquarters. Instead, the applicant's record was updated to reflect a "pending option" based on receipt of the RCSBP Election Certificate Form. Later, when the applicant was notified he was eligible to apply for Reserve retired pay on his 60th Birthday, he was not informed of the error concerning his automatic RCSBP election. When the applicant applied for retired pay (DD Form 2656), he indicated he wanted to decline participation in SBP. Because of the earlier error in not automatically enrolling the applicant in the RCSBP program, as dictated by law, the Entitlements Branch should have given the applicant an opportunity to make an RCSBP election on the applicable form.

The complete ARPC/DPTT evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 18 Jun 12 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 timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. After a thorough review of the evidence of record and the applicant's submission, we believe a preponderance of the evidence supports corrective action. 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 been the victim of an error or injustice. Therefore, we recommend his records be corrected as indicate below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show that on 5 August 2002, he declined coverage under the Reserve Component Survivor Benefit Plan (RCSBP).

The following members of the Board considered AFBCMR Docket Number BC-2012-00943 in Executive Session on 27 Nov 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

All members voted to correct the records as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 2 Mar 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, ARPC/DPTT, dated 5 Jun 12.
- Exhibit D. Letter, SAF/MRBR, dated 18 Jun 12.

Panel Chair