

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00671
COUNSEL: NONE
HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

His record be changed to show he elected spouse coverage under the Reserve Component Survivor Benefit Plan (RCSBP).

APPLICANT CONTENDS THAT:

When he reached 20 years of service, he was divorced and therefore elected an RCSBP status of Option A. He remarried on 6 June 2008 and states that he was deployed to Iraq for most of the first year of his marriage, which likely resulted in him not receiving the election in a timely manner. He believes the current RCSBP election is unjust to his spouse. It is imperative that this be corrected.

In support of the applicant's appeal, he provides a copy of his marriage license.

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 1 August 2006 via certified mail. The applicant filled out an ARPC Form 123, *RCSBP Certificate*, which reflects his election of Option A, "Decline To Make an Election Until Age 60" on 20 September 2006.

The applicant married his current spouse on 6 June 2008.

AIR FORCE EVALUATION:

ARPC/DPTT recommends denial. DPTT states neither the applicant nor his spouse notified DPTT regarding the marital status change within one year 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 information package sent to the applicant stated that any life changing events must be reported to DPTT within one year of the event.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 1 May 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.

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 an error or an 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 and adopt its rationale as the basis for our conclusion the applicant has failed to sustain his burden of proof of the existence of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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.

THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of an 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-2012-00671 in Executive Session on 27 November 2012, under the provisions of AFI 36-2603:

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00671 was considered:

- Exhibit A. DD Form 149, dated 9 February 2012, w/atc.
- Exhibit B. Letter, ARPC/DPTT, dated 23 March 2012, w/atchs.
- Exhibit C. Letter, SAF/MRBR, dated 1 May 2012.