

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00798
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His record be corrected to allow him to terminate spouse and child coverage under the Survivor Benefit Plan (SBP).

APPLICANT CONTENDS THAT:

He was not briefed that his option to withdraw from SBP was still in effect while he was recalled to active duty.

In support of his appeal, the applicant provides a copy of his DD Form 2656-2, *Survivor Benefit Plan (SBP) Termination Request*.

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

STATEMENT OF FACTS:

Prior to his 1 June 2008 retirement, the applicant made an SBP election for spouse and child SBP coverage based on full retired pay. Although not required, his wife concurred with the election. He was recalled to active duty on 20 February 2010, and SBP premiums were suspended. During his period of recall, the applicant's wife and children were covered by the active duty death provision under Title 10, United States Code (USC), Section 1448(d). The applicant reverted to retired status on 20 February 2012 and the SBP election he made prior to retiring resumed.

The remaining relevant facts extracted from the applicant military service records, are contained in the letter prepared by the Air Force office of primary responsibility at Exhibit C.

AIR FORCE EVALUATION:

AFPC/DPSIAR recommends denial. DPSIAR states the applicant was properly briefed on the options and effects of the SBP by the Dyess Air Force Base SBP counselor prior to retirement, including the disenrollment provision. The applicant could have disenrolled with his wife's written concurrence, beginning 1 June 2010 as authorized by Public Law 105-85. There is no provision in the law that allows the one-year disenrollment period to be

extended or suspended because a member is recalled to active duty. There is no evidence the applicant submitted a DD Form 26456-2 after June 2010 and before June 2011.

DPSIAR indicates there is no error or injustice in this case. Providing the applicant additional time to terminate his SBP coverage would be inequitable to other retirees in similar situations, and is not justified by the facts. In the event of his death, his wife is entitled to receive monthly SBP payments of approximately \$2,054.

The complete DPSIAR evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

He understands that arbitrary withdrawal from SBP is unacceptable and would set an extremely poor precedent for others in the program; however, in his circumstances, he does not perceive his request is arbitrary. Instead, his application directly coincides with the end of his Air Force career as reflected on his DD Form 214, *Certificate of Release or Discharge from Active Duty*. At the time of his January 2012 request he submitted a DD Form 2656-2, with both his and his wife's signatures. He was unaware it had to be notarized. Therefore, it is apparently considered not received either due to the lack of notarization or late date.

He and his wife have discussed this matter and neither of them believe continuance in the program is in their best interest. His wife's notarized signature on the DD Form 2656-2 is included with his rebuttal.

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

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of error or 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 that the applicant has not been the victim 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.

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.

The following members of the Board considered AFBCMR Docket Number BC-2012-00798 in Executive Session on 15 August 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00798 was considered:

- Exhibit A. DD Form 149, dated 26 Jan 12, w/atch.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIAR, dated 23 Mar 12
- Exhibit D. Letter, SAF/MRBR, dated 12 Apr 12.
- Exhibit E. Letter, Applicant, dated 17 Apr 12.

Panel Chair