

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01043

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

The debt established by Survivor Benefit Plan (SBP) election be remitted.

APPLICANT CONTENDS THAT:

His SBP was suspended after divorcing his first wife in March 1993. On 29 December 2006, he married his current wife. In April 2011, he added his wife to his records and incurred a \$5,434.88 debt. He is on a fixed income and cannot afford any deductions out of his retirement pay.

In support of the appeal, the applicant provides a personal statement, his marriage certificate and the SBP master worksheet.

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

STATEMENT OF FACTS:

The applicant is a former member of the Air Force who retired on 1 January 1977.

AIR FORCE EVALUATION:

AFPC/DPSIAR recommends denial. SBP is basically irrevocable as long as there is an eligible beneficiary. It is suspended when the spouse loses eligibility. Public Law (PL)99-145 allows a participant, with suspended spouse coverage to elect not to resume coverage for a subsequently acquired spouse. However, the new spouse will automatically be covered at the previous level on the first anniversary of the marriage if the member takes no action before that date. Premiums for the coverage become effective the first day of the 13th month and the

retroactive costs are computed when the remarriage becomes a matter of record.

The applicant married his current spouse on 29 December 2006, but he did not notify DFAS that he did not want to extend his SBP coverage to her before the first anniversary of their marriage. In April 2011, DFAS received the DD Form 2656-6, *SBP Election Change Certificate*, from the applicant requesting to resume the existing level of coverage for his new spouse with a copy of their marriage certificate. DFAS reinstated the spousal coverage retroactive to 29 December 2007. The monthly premiums were deducted from his retirement pay as required by law and they began retroactive recovery for the SBP premium.

Although there is no basis in the law to exempt a participant from paying SBP monthly premiums, based on the applicant's financial hardship, he may request a waiver/remission of the debt by submitting the debt to the address listed on the debt notification letter.

There is no evidence of an error or injustice in this case.

The complete DPSIAR evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 11 May 2012, for review and comment within 30 days (Exhibit C). As of this date, this office has received no response.

THE BOARD CONCLUDES THAT:

1. The applicant has not 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 the recommendation of the Air Force office of primary responsibility (OPR) and adopt its rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Additionally, as noted by the Air Force OPR, if the applicant believes the debt is a hardship, he should consider applying for a waiver or remission of the debt. Once he has exhausted his administrative remedies and not received relief,

he may again apply to this board. Therefore, in the absence of evidence to the contrary, we find no basis to recommend favorable consideration of the applicant's request.

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-2012-01043 in Executive Session on 27 November 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 8 Mar 12, w/atch.
- Exhibit B. Letter, AFPC/DPSIAR, dated 27 Apr 12.
- Exhibit C. Letter, SAF/MRBR, dated 11 May 12.

Panel Chair