

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01548
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

Her record be changed to show she declined coverage under the Survivor Benefit Plan (SBP).

APPLICANT CONTENDS THAT:

The SBP selection was an administrative error. According to DFAS, full SBP was selected when she entered retirement. However, when she submitted documentation for retirement pay at age 60, she submitted signed and notarized documentation declining SBP. It was never her intent or desire to participate in SBP.

In support of the applicant's appeal, she provides a copy of Reserve Order Number EL-1186, DD Form 2656, *Data for Payment of Retired Personnel* and ARPC Form 83, *Application for Retired Pay*.

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

STATEMENT OF FACTS:

The relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letter prepared by the appropriate office of the Air Force at Exhibit B.

AIR FORCE EVALUATION:

ARPC/DPTT recommends approval. DPTT states the applicant attained her eligibility to participate in the RCSBP on 22 April 2008. The RCSBP election package was mailed to her but was returned undeliverable on 3 June 2008. Based on the information provided, DPTT recommends relief be granted. Per U.S.C. Title 10, Subsection 1448(a)(2)(B), the applicant was never afforded the opportunity to make an RCSBP election when she attained her eligibility on 22 April 2008. All SBP premiums should be

refunded back to the applicant retroactive back to her 60th birthday, 19 February 2012.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 17 July 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. Sufficient relevant evidence has been presented to demonstrate the existence of an error or injustice warranting relief. We note that ARPC/DPTT states the applicant was never afforded the opportunity to make an RCSBP election when she attained her eligibility on 22 April 2008. Therefore, 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 be allowed to decline coverage under the SBP. Therefore, we recommend that the records be corrected as indicated below.
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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 22 April 2008, she elected to decline coverage under the Survivor Benefit Plan, and her spouse, concurred in her decision.

The following members of the Board considered AFBCMR Docket Number BC-2012-01548 in Executive Session on 11 September 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-2012-01548 was considered:

- Exhibit A. DD Form 149, dated 20 April 2012, w/atchs.
- Exhibit B. Letter, ARPC/DPTT, dated 28 June 2012, w/atchs.
- Exhibit C. Letter, SAF/MRBR, dated 17 July 2012.

Panel Chair