

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01917
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His record be corrected to reflect he elected former spouse and child coverage under the Survivor Benefit Plan (SBP).

APPLICANT CONTENDS THAT:

1. In Jan 01, he went to the personnel and finance offices at Peterson Air Force Base, Colorado to inquire about what he needed to do to ensure his former spouse received her court ordered portion of his retired pay. He was informed she would receive her portion of his retirement pay once she completed the required forms.

2. He provided a copy of his divorce decree and pointed-out that he needed to maintain SBP coverage for his former spouse; however, he was never informed he needed to submit a valid election to voluntarily change spouse to former spouse coverage within one year of the divorce. He has made over 185 of the 360 monthly SBP premiums since he retired in Aug 96.

On 17 Apr 12, during a call to the DFAS Call Center, he discovered that his former spouse was not covered under former spouse SBP, even though he had made all the required monthly SBP premiums for spouse and child coverage.

In support of his request, the applicant provides a personal statement, a copy of his divorce decree and DFAS-CL 7220/148, *Retiree Account Statement*.

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

STATEMENT OF FACTS:

On 18 Feb 82, the applicant and his former spouse were married, and he elected spouse and child SBP coverage based on full retired pay prior to his August 96 retirement. On 9 Jan 01, the parties divorced. The martial settlement agreement, incorporated into their divorce decree, contained the applicant's agreement to maintain former spouse SBP coverage.

The applicant's youngest child remains an eligible contingent beneficiary.

The remaining 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 B.

AIR FORCE EVALUATION:

AFPC/DPSIAR recommends approval. DPSIAR states there is no evidence of error in this case and absent a competing spouse, they recommend approval. Approval should be contingent upon recovery of appropriate retroactive costs.

The complete DPSIAR evaluation is at Exhibit B.

APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 7 Aug 12 for review and comment. As of this date, no response has been received by this office (Exhibit C).

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. After a thorough review of the facts and circumstances of this case, we agree with recommendation of the Air Force office of primary responsibility that the applicant's records should be corrected to reflect that he elected former spouse and child coverage under the SBP. Therefore, in the interest of justice, we recommend his records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating APPLICANT be corrected to show that on 10 January 2001, he submitted an election for former spouse and child coverage based on full retired pay naming as the eligible former spouse beneficiary.

The following members of the Board considered AFBCMR Docket Number BC-2012-01917 in Executive Session on 19 December 2012, 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 27 Apr 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSIAR, dated 19 Jun 12.
- Exhibit C. Letter, SAF/MRBR, dated 7 Aug 12.

Panel Chair