

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02422
COUNSEL: NONE
HEARING DESIRED: NO

(APPLICANT)

APPLICANT REQUESTS THAT:

Her former spouse's records be corrected to show he made an election for "former spouse" coverage under the Survivor Benefit Program (SBP), naming her as the beneficiary.

APPLICANT CONTENDS THAT:

She should be the "former spouse" beneficiary for SBP, as ordered in their divorce decree.

On 30 Nov 09, she was named as the SBP beneficiary in the divorce decree. The member led her to believe that she was covered and in March 2011, she began asking him for proof. However, in February 2012, she contacted the Defense Finance and Accounting Service (DFAS) office and was told that he did not enroll her in the SBP. She was not aware of the one-year "deemed election" period.

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

STATEMENT OF FACTS:

The relevant facts pertaining to this application, extracted from the member's records are contained in the letter prepared by the appropriate office of primary responsibility at Exhibit B. Accordingly there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

AFPC/DPSIAR states that absent evidence of a competing spouse, it would be appropriate to correct the member's record to reflect that effective 1 Dec 09, he elected "former spouse" coverage under the SBP, based on full retired pay. The applicant and the member were divorced on 30 Nov 09. The divorce decree awarded SBP to the applicant. There is no record of either party submitting a valid election to establish former spouse SBP coverage within the first year following their divorce. SBP

premiums continued to be deducted from the member's retired pay. There is no indication that either party has remarried.

The DPSIAR complete evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant and the member on 7 Aug 12 for review and comment within 30 days. As of this date, this office has received no responses.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice to warrant corrective action. In this respect, we note the opinion and recommendation of the Air Force office of primary responsibility and agree with their recommendation that since there is no evidence of a competing spouse, it is appropriate to correct the record. Furthermore, since SBP premiums continue to be deducted from the former member's retired pay, we find this illustrates his intent to continue SBP for his former spouse. Therefore, we recommend that the records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to MEMBER be corrected to show that on 1 December 2009, he elected to change his Survivor Benefit Plan (SBP) from "spouse only coverage" to "former spouse coverage" based on full retired pay, naming APPLICANT as the eligible beneficiary.

The following members of the Board considered AFBCMR Docket Number BC-2012-02422 in Executive Session on 27 Nov 12, under the provisions of AFI 36-2603:

- , Panel Chair
- , Member
- , Member

All members voted to correct the records, as recommended. The following documentary evidence for Docket Number BC-2012-02402 was considered:

- Exhibit A. DD Form 149, dated 31 May 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSIAR, dated 19 Jul 12.
- Exhibit C. Letters, SAF/MRBR, dated 7 Aug 12.

Panel Chair

