

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01105
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

She receive former spouse coverage under the Survivor Benefit Plan (SBP).

APPLICANT CONTENDS THAT:

Her divorce decree stipulates that her former spouse will list her as the beneficiary of the SBP. She was unaware she needed to notify the Defense Finance and Accounting Service (DFAS) within one year of their divorce.

In support of her request, the applicant provides copies of DFAS-CL 7220/148, *Retiree Account Statement*; AOC-SP-600, *Application/Notice of Resumption of Former Name*; AOC-SP-601/DHHS 1053, *Order and Certificate of Name Change* and her divorce decree.

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

STATEMENT OF FACTS:

On 20 Sep 91, the applicant and her former spouse were married, and he elected spouse and child SBP coverage based on full retired pay prior to his 1 Aug 07 retirement. On 8 Jun 09, the parties divorced, and in the court order, incorporated in the divorce decree, the member agreed to continue to list the applicant as the SBP 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 either party submitted a valid former spouse election within the first year following their divorce as the law

requires. SBP premiums continue to be deducted from the member's retired pay and DFAF-CL records continue to erroneously reflect the applicant's name and date of birth as the eligible spouse beneficiary.

DPSIAR states there is no evidence of Air Force error and absent evidence of a competing spouse it would be appropriate to enforce the parties' court-ordered agreement to continue SBP coverage in the applicant's behalf. They cannot confirm if either party has remarried.

The complete DPSIAR evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 11 May 12 for review and comment within 30 days. 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.
3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. After a thorough review of the facts and circumstances of this case, we are not persuaded that relief is warranted. Although the Air Force office of primary responsibility recommends approval, in the absence of evidence confirming there is no competing spouse, we do not believe the record should be disturbed. We note the applicant has been notified on numerous occasions to provide additional documentation, i.e., a notarized statement from her former spouse confirming he has not remarried. However, she has not provided the requested information. Should the applicant provide the notarized statement from her former spouse, we would be willing to reconsider her request. In the absence of such evidence, we find no basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and 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-2012-01105 in Executive Session on 29 Jan 13, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 27 Mar 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSIAR, dated 23 Apr 12.
- Exhibit C. Letter, SAF/MRBR, dated 11 May 12.

Panel Chair