

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02487  
COUNSEL: NONE  
HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His record be corrected to show he did not add his new wife to his Survivor Benefit Plan (SBP) coverage.

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APPLICANT CONTENDS THAT:

He thought if he did not tell the Defense Finance and Accounting Service (DFAS) of his post-retirement marriage, he could not add her after the one-year period.

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

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STATEMENT OF FACTS:

The applicant elected spouse and child SBP coverage based on full retired pay prior to being permanently retired for disability on 13 September 2008. The Defense Enrollment Eligibility Reporting System (DEERS) reflects the applicant and his former spouse divorced on 23 December 2009. DFAS records reflect the applicant did not report the divorce until 22 February 2010, but at that time, the spouse's portion of SBP coverage was retroactively suspended. On 2 August 2010, the applicant notified DFAS that he had a new child, but when he remarried on 23 September 2010, there was no evidence he properly terminated spouse coverage within the first year of their marriage. As a result, his current spouse became the eligible spouse beneficiary by operation of law on 23 September 2011. Monthly premiums of approximately \$133 should have begun to be deducted from the applicant's retired pay on 1 October 2011, but they did not. Therefore, there is a debt of over \$1,500 for the spouse's portion of the SBP coverage which continues to accrue.

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AIR FORCE EVALUATION:

AFPC/DPSIAR recommends denial. DPSIAR states there is no evidence of an Air Force error in this case. The implementing SBP statute ensured that qualified, newly acquired spouses are afforded the protection of SBP regardless of the retired member's

failure or delay in requesting the coverage. This automatic feature of the SBP was adjusted by Public Law 99-145, but requires the member to take the appropriate action to cause coverage to not be extended. The record reflects the applicant properly advised DFAS of his divorce and new child's birth. Therefore, it is reasonable that he should have understood the importance of making timely notification following his second marriage to determine SBP options. Notices were routinely published in the *Afterburner, News for USAF Retired Personnel*, describing a participant's need to act on SBP matters following changes in marital status. In the event of the applicant's death, his current wife would receive SBP annuity payments of approximately \$1,127 after recovery of the premium debt. Approval of this request would provide the applicant an additional opportunity to change his SBP coverage not afforded to other retirees similarly situated and is not justified by the facts of the case.

The complete DPSIAR evaluation is at Exhibit B.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 20 August 2012, for review and comment within 30 days (Exhibit C). As of this date, this office has received no response.

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THE BOARD CONCLUDES THAT:

1. The applicant has 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 recommendation of the Air Force office of primary responsibility and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

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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.

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The following members of the Board considered AFBCMR Docket Number BC-2012-02487 in Executive Session on 12 February 2013, under the provisions of AFI 36-2603:

, Panel Chair  
, Member  
, Member

The following documentary evidence was considered in connection with AFBCMR Docket Number BC-2012-02487:

- Exhibit A. DD Form 149, dated 31 May 12, w/atchs.
- Exhibit B. Letter, ARPC/DPSIAR, dated 3 Aug 12.
- Exhibit C. Letter, SAF/MRBR, dated 20 Aug 12.

Panel Chair