

JUL 17 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NO: 97-03293

COUNSEL: None

HEARING DESIRED: No

[REDACTED]

Applicant requests that the one year eligibility period for a spouse acquired after retirement be waived and she be granted a Survivor Benefit Plan (SBP) annuity. Applicant's submission is at Exhibit A.

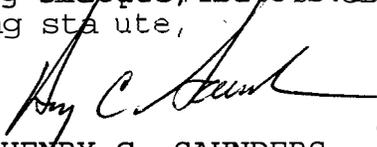
The appropriate Air Force office evaluated applicant's request and provided an advisory opinion to the Board recommending the application be denied (Exhibit C). The advisory opinion was forwarded to the applicant for review and response (Exhibit D). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinion appear to be based on the evidence of record and have not been rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. Henry C. Saunders, Mrs. Barbara A. Westgate, and Mr. David C. Van Gasba the provisions of application on 16 July 1998 in accordance with the provisions of USCF AF 52 Force Instruction 36-2603 and the governing statute,


HENRY C. SAUNDERS
Henry C. SAUNDERS
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinion
- D. SAF/MIBR Ltr Forwarding Advisory Opinion



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

27 FEB 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTR
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Requested Correction: The applicant, widow of the above-named retiree, is requesting corrective action that would entitle her to a Survivor Benefit Plan (SBP) annuity.

Basis for Request: The applicant claims the member intended to add Survivor Benefits for her as soon as the year's waiting period was up.

Background: The law controlling the SBP provides that a spouse acquired after a member retires becomes an eligible beneficiary on the first anniversary of their marriage or the birth of a child of the marriage, whichever is earlier.

Facts: The member elected RSFPP child only coverage prior to his 1 Aug 68 retirement and all children lost eligibility effective Dec 70. The member elected spouse SBP coverage based on full retired pay during the open enrollment period authorized by Public Law 97-35 (31 Aug 82) and coverage and costs were suspended 1 Oct 92 following the death of his wife. The applicant and the member married on 5 Dec 96 and the member died on 27 Oct 97, less than the time necessary for the applicant to become an eligible SBP beneficiary,

Discussion: While it is unfortunate the member died shortly before the annuity would have been payable, there are no provisions in law to waive the one-year eligibility period for a spouse acquired after retirement. It would be contrary to the letter and intent of the law, as well as inequitable to other survivors similarly situated, to approve the applicant's request.

Recommendation: There is no basis in law to grant relief; therefore, we recommend the request be denied.

PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Mgt