



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUN 12 1998

Office of the Assistant Secretary

AFBCMR 97-03628

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code, Air Force Instruction 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that on 4 June 1996 he elected under the Survivor Benefit Plan to change his coverage from "spouse and child coverage" to "former spouse coverage," based on full retired pay, and naming [REDACTED] as the former spouse beneficiary.


DONNA PITTEMBER
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Chief Examiner
Air Force Board for Correction
of Military Records



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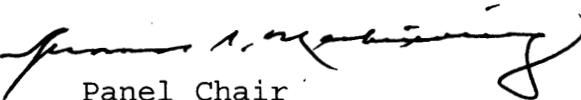
Office of the Assistant Secretary

AFBCMR 97-03628

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Staff and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director of the Board or his designee.


Panel Chair

Attachment:
Ltr, AFPC/DPPTTR, dtd 2 Apr 98



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

2 APR 1998

MEMORANDUM FOR AFBCMR

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

SUBJECT: Application for Correction of Military Records

Requested Correction: The applicant is requesting corrective action to show he filed a timely election for former spouse coverage under the Survivor Benefit Plan (SBP).

Basis for Request: The applicant claims it was never his intent to deny his former spouse anything to which she was entitled.

Background: A spouse's eligibility as an SBP beneficiary terminates upon divorce. However, the law provides two mechanisms for changing spouse to former spouse coverage. Both must be exercised within the first year following divorce: the retiree may file an election change, or the former spouse may request the retiree be deemed to have made such a change on his or her behalf. In the latter case, the former spouse must provide legal documentation that the member agreed, or the court ordered the member, to establish former spouse coverage. If neither the member nor former spouse requests the election change during the one-year eligibility period, former spouse coverage may not be established thereafter and the former spouse is not eligible for annuity payments upon the member's death.

Facts: The member and former spouse were married on 25 Sep 58 and the member elected spouse and child coverage, maximum annuity, prior to his 1 Feb 73 retirement. The parties divorced on 3 Jun 96 and although the divorce decree required SBP coverage for his former spouse be continued, neither she nor the applicant submitted a valid election change during the required time limit. His youngest child lost eligibility effective 1 Jul 96. Neither party remarried. Spouse premiums erroneously continued to be deducted from the member's retired pay until the Defense Finance and Accounting Service - Cleveland Center (DFAS-CL) audited the record, suspended spouse premiums in Oct 97, and issued the member a refund of premiums deducted after their divorce.

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Discussion: The applicant made no election change during the required time limit and there is no record he requested coverage for his former spouse *be* terminated, evidence of his intent to maintain her as the eligible SBP beneficiary. To deny *the* request would be to deny the former spouse an asset that was awarded to her by the court.

Recommendation: Although there is no evidence of Air Force error, to preclude a possible injustice, we recommend the member's record be corrected to reflect on 4 Jun 96 he elected to change SBP spouse and child coverage to former spouse coverage based on full retired pay, naming [REDACTED] as the former spouse beneficiary. Approval should be contingent upon recoupment of all applicable premiums.



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