



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

SEP 30 1998

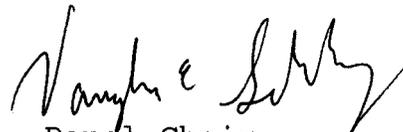
Office of the Assistant Secretary

AFBCMR 98-01590

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force office of primary responsibility 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, HQ AFPC/DPPT, dtd Sep 14, 1998,
w/Atch



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

14 SEP 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, son of the above-named retired member, is requesting corrective action that would entitle his mother to a Survivor Benefit Plan (SBP) annuity.

Basis for Request: The applicant claims military personnel didn't properly advise the decedent that his election should be changed to "prior spouse" after the divorce.

Background: A spouse's eligibility to receive an SBP annuity terminates upon divorce. However, the law permits retirees to elect former spouse coverage, but the election change must be submitted within one year following the divorce. If the retiree does not request a change to former spouse coverage within a year, former spouse coverage may not be established thereafter. Even though SBP premiums continue to be deducted from retired pay following divorce, the former spouse is not entitled to receive the annuity in the event of the member's death.

Facts: The member elected reduced spouse only SBP coverage, reduced annuity, prior to his 1 May 77 retirement. The parties divorced effective 2 Jun 93, but the divorce decree did not address the SBP. There is no evidence the decedent took the required action to change the election, but his record continued to reflect his former spouse's date of birth as the eligible spouse beneficiary and **SBP** premiums were deducted from his retired pay until his death on 4 Sep 97.

Discussion: There is **no** record that the member requested coverage for his former spouse be terminated, nor questioned the deduction of SBP premiums from his retired pay, each indicative of his willingness to provide her the benefit.

Recommendation: Although there is no evidence of Air Force error, we recommend that the member's record be corrected to reflect that on 3 Jun 93, he elected former spouse coverage, reduced annuity, naming [REDACTED] as the former spouse beneficiary. Approval should be contingent upon recoupment of appropriate premiums.

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

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MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code and 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 3 June 1993, he changed his Survivor Benefit Plan (SBP) election from spouse coverage to former spouse coverage based on reduced retired pay, naming [REDACTED] as the former spouse beneficiary.

John J. Manzi
JOHN J. MANZI
Chief Examiner

Air Force Board for Correction
of Military Records