



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

Office of the Assistant Secretary

SEP 30 1998

AFBCMR 98-01671

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  
Panel Chair

Attachment:  
Ltr, HQ AFPC/DPPTR, 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/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 that he filed a timely election for former spouse coverage under the Survivor Benefit Plan (SBP) to comply with his divorce decree.

Basis for Request: The applicant claims he was unaware that paperwork needed to be reaccomplished upon divorce.

Background: A spouse's eligibility as an SBP beneficiary terminates upon divorce. However, the law provides two mechanisms for changing spouse coverage 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 that the court ordered the member, to establish former spouse coverage. If neither the member nor the former spouse requests the election change during the one-year eligibility period, former spouse coverage may not be established thereafter. Even though a member fails to notify the Defense Finance and Accounting Service-Cleveland Center (DFAS-CL) of the divorce and continues to pay SBP premiums afterwards, the former spouse is not eligible for annuity payments upon the member's death.

Facts: The parties married on 26 Jun 81 and the applicant elected spouse coverage based on full retired pay prior to his 1 Feb 87 retirement. They divorced on 24 May 95 and the divorce decree required SBP coverage be continued. The member remarried on 21 Mar 96; however, he did not notify DFAS-CL of either his divorce or remarriage. Premiums continue to be deducted from his retired pay erroneously listing the former spouse as the eligible spouse beneficiary.

Discussion: Even though the member did not make a valid election change, there is no evidence he requested coverage for his former spouse be terminated, indicative of his intent to maintain coverage on her behalf. To deny his request would be to deny his former spouse an asset awarded to her by the court.

9801671

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 that on 25 May 95 he elected to change SBP spouse coverage to former spouse coverage based on full retired pay, naming [REDACTED] as the former spouse beneficiary, Approval should be contingent upon recoupment of any applicable premiums.



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

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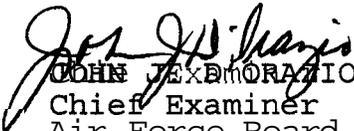
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AFBCMR 98-01671

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 25 May 1995, he changed his Survivor Benefit Plan (SBP) election from spouse coverage to former spouse coverage based on full retired pay, naming [REDACTED] as the former spouse beneficiary.

  
JOHN J. EXON  
Chief Examiner  
Air Force Board for Correction  
of Military Records