RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2010-00622

XXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

He be given retired pay in lieu of his Voluntary Separation Incentive (VSI) payments.

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APPLICANT CONTENDS THAT:

His application for retirement may have been erroneously denied because it may not have included an active duty service commitment waiver. His retirement application was denied for “one deep manning.”

In support of his appeal, the applicant provides copies of his DD Forms 214, *Certificate of Release or Discharge from Active Duty.*

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

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STATEMENT OF FACTS:

The applicant’s military personnel records indicate that he enlisted in the Regular Air Force on 10 Aug 73. He served continuously until his honorable discharge on 4 Dec 78 and was credited with 5 years, 3 months, and 25 days of total active service. After a short break in service, he reenlisted in the Regular Air Force on 25 Sep 79 and was progressively promoted to the grade of master sergeant (E-7), effective and with a date of rank of 1 Jan 93.

On 7 Jul 93, the applicant initiated a request for early separation to participate in the VSI. His request was approved and he was honorably discharged on 3 Jan 94. He was credited with 18 years, 7 months, and 3 days of total active service.

According to AFPC/DPSOR, Item 12c, *Net Active Service This Period*, of the applicant’s DD Form 214 is incorrect and should reflect 14 years, 3 months, and 9 days of total active service. Accordingly, the applicant should have been credited with 19 years, 7 months, and 4 days of total active service.

The remaining relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air Force, which is attached at Exhibits C.

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AIR FORCE EVALUATION:

AFPC/DPSOR recommends denial of the applicant’s request for retirement in lieu of his acceptance of VSI, indicating there is no evidence of an error or injustice. AFPC/DPSOR cannot speculate as to why he requested to separate from active duty under the VSI program, effective 3 Jan 94, rather than remaining on active duty to be eligible for a 20-year retirement on 1 Jun 94. His request for release was clearly voluntary and the Air Force separated him as he requested on 3 Jan 94. The applicant receives an annual VSI payment of $12,372.75 for 38 years from his 3 Jan 94 separation date. If the Board is inclined to grant the requested relief, the applicant would be required to repay the entire amount of the VSI payments he has received to date.

A complete copy of the AFPC/DPSOR evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 19 Nov 10 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit D).

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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 not timely filed; however, it is in the interest of justice to excuse the failure to timely file.

3.  Insufficient relevant evidence has been presented to demonstrate the existence of an 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 its rationale as the basis for our conclusion 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 the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and 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-2010-00622 in Executive Session on 16 Dec 10, under the provisions of AFI 36-2603:

Mrs. XXXXXXXXXX, Panel Chair

Mr. XXXXXXXXXXX, Member

Ms. XXXXXXXXXXX, Member

The following documentary evidence was considered:

Exhibit A.  DD Form 149, dated 10 Feb 10, w/atchs.

Exhibit B.  Applicant's Master Personnel Records.

Exhibit C.  Letter, AFPC/DPSOR, dated 28 Oct 10.

Exhibit D.  Letter, SAF/MRBR, dated 19 Nov 10.

XXXXXXXXXXX

Panel Chair