

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2015-03257-2

COUNSEL: Work-Product

HEARING REQUESTED: Work...

APPLICANT'S REQUEST

The Board reconsider his request he be granted a Reserve retirement, effective 23 August 2005.

RESUME OF THE CASE

The applicant is a former Air Force technical sergeant (E-6).

On 29 July 2015, the applicant petitioned the AFBCMR requesting the following:

1. All documents related to his Don't Ask, Don't Tell (DADT) inquiry and outcome be removed from his military records.
2. He be issued an updated DD Form 214, *Certificate of Release or Discharge from Active Duty*, with corrections in Items 23. *Type of Separation*; 25. *Separation Authority*; 26. *Separation Code*; 27. *Reentry Code*; and 28. *Narrative Reason for Separation*.
3. He be credited with:
 - a. Sufficient additional active duty service to qualify him for an active duty retirement, effective 5 July 2013.
 - b. An active duty retirement based upon 12 years, 1 month, and 11 days of Total Active Federal Military Service (TAFMS), with full pay and benefits, effective 1 February 2012.
 - c. Promotion to the grade of master sergeant (E-7), effective 1 February 2012.
4. As an alternative, if item 3 above is not granted, he requests full active duty retirement in the grade of E-6, effective 23 August 2005, with back pay and benefits.
5. Upon rebuttal, he requests if he is granted a Reserve retirement, the date of his retirement be effective on the date of the Board's decision, rather than 23 August 2005.

On 20 September 2016, the Board partially granted the applicant's request to correct his discharge under finding he was discharged based solely on DADT policy and corrections to his DD Form 214 were warranted according to the repeal of DADT. Specifically, the Board directed his DD Form 214 be amended to reflect a separation code and corresponding narrative reason for

separation of JFF, *Secretarial Authority* and a reentry code of 3K. The Board acknowledged the comments of ARPC/DPTT indicating the applicant's discharge should be rescinded and he be transferred to the Retired Reserve; however, they noted the memorandum from ARPC/DPTTR, dated 19 Feb 14, notifying the applicant he had completed the required years of service to be entitled to retired pay as of 23 August 2005. Thus, the applicant was eligible to begin drawing retired pay at age 60 and there was no requirement to rescind his active duty discharge to qualify him for Reserve retirement. All remaining requests were denied.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit K.

On 11 April 2024, the applicant requested reconsideration of his request to rescind his involuntary discharge from active duty, and he be transferred to the Retired Reserve, effective 23 August 2005. He again contends there are significant differences between "discharged" and "Reserve retired" statuses. After serving over 20 years, he is eligible for a Reserve retirement, as recommended by ARPC. Reserve retirees are entitled to benefits such as gray area credit, cost of living increases, and Tricare, which former members who were discharged are not. The Board's decision to classify him as a "former member" rather than a "retiree" is incorrect, as he had requested transfer to retiree status before his 2005 discharge and again in his 2015 AFBCMR petition. ARPC clarified that to apply for Reserve retirement, the applicant must be in a "Retired Reserve" Personnel Accounting Symbol (PAS) code, but he is currently in a "discharged" PAS code. He was discharged solely for being gay, without any aggravating factors or misconduct, and he views this as an opportunity to correct an injustice. In support of his reconsideration request, the applicant submitted a Blended Retirement System Financial Counselor Educator Course Excerpt as new evidence.

The applicant's complete submission is at Exhibit L.

APPLICABLE AUTHORITY/GUIDANCE

Title 10 United States Code Section 12731 (10 U.S.C. § 12731), *Age and service requirements*, (a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person (1) has attained the eligibility age applicable under subsection (f) to that person; (2) has performed at least 20 years of service computed under section 12732 of this title.

10 U.S.C. § 12732 - *Entitlement to retired pay: computation of years of service*, (2) Each one-year period, after 1 Jul 49, in which the person has been credited with at least 50 points.

Department of the Air Force Instruction (DAFI) 36-3203, *Service Retirements*, chapter 3, paragraph 3.1.2: Reserve Retirement Eligibility 10 U.S.C. § 12731 establishes that Air National Guard (ANG) or Air Force Reserve (AFR) members must have at least 20 years of creditable years to qualify for a Reserve retirement. Members serving on active duty who have completed 20 years of creditable years through a combination of active duty and Reserve service also qualify for a Reserve retirement even though the member may not have enough TAFMS to qualify for an active duty retirement. Members on active duty desiring a Reserve retirement must resign (officers) or separate (enlisted) from the active component and request appointment to (officers) or entry into (enlisted) the Air Reserve Command before a Reserve retirement may be requested and approved. Members must apply for Reserve retired pay if they have attained the eligibility age at which they are eligible and qualify for Reserve retired pay and have performed at least 20 creditable years. A

creditable year is defined as earning 50 points within an individual's established Retention and Retirement year per Air Force Manual (AFMAN) 36-2136, *Reserve Personnel Participation*, paragraph 2.3.2.

AIR FORCE EVALUATION

ARPC/DPTT (Transitions Division) recommends granting the application. Based on a review of the documentation provided and analysis of the facts, there is no evidence of an error or injustice on the part of ARPC. On 23 August 2005, the applicant was discharged under DADT. In 2016, the AFBCMR partially granted the applicant's request to rescind his discharge and transfer him to the Retired Reserve, effective 23 August 2005. ARPC agreed with this request, but the Board determined rescinding the applicant's discharge and transferring him to the Retired Reserve was unnecessary, citing a letter sent to the applicant in 2014 confirming his eligibility for retired pay at age 60. However, this decision negatively impacted the applicant's retirement entitlements.

The applicant was discharged under DADT policy; however, he qualified for a Reserve retirement at the time of discharge and should have been transferred to the Retired Reserve. Had the Board directed his discharge be rescinded and he be transferred to the Retired Reserve as requested, the applicant would have been eligible for various benefits he is currently not entitled to receive.

The complete advisory opinion is at Exhibit N.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 12 December 2024 for comment (Exhibit O) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/DPTT and finds a preponderance of the evidence substantiates the applicant's contentions. The Board concedes its previous decision not to rescind the applicant's discharge and transfer him to the Retired Reserve was done without fully realizing the negative impact on the applicant's retirement entitlements. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show:

a. On 23 August 2005, he was discharged from the Regular Air Force, and transferred to the Air Force Reserve and assigned to the Non-Affiliated Reserve Section, effective 24 August 2005.

b. On 25 August 2005, he was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List, and eligible for retired pay at age 60, under the provisions of 10 U.S.C. § 12731.

CERTIFICATION

The following quorum of the Board, as defined in DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2015-03257-2 in Executive Session on 23 January 2025:

Work-Product Panel Chair
Work-Product Panel Member
Work-Product Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit K: Record of Proceedings, w/ Exhibits A-J, dated 20 September 2016.

Exhibit L: Application, DD Form 149, w/atchs, dated 11 April 2024.

Exhibit M: Documentary evidence, including relevant excerpts from official records.

Exhibit N: Advisory Opinion, ARPC/DPTT, dated 10 December 2024.

Exhibit O: Notification of Advisory, SAF/MRBC to Applicant, dated 12 December 2024.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

9/18/2025

X

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2015-03257-2

Work-Product