

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-00341

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

**APPLICANT’S REQUEST**

He be given a Reserve retirement.

**APPLICANT’S CONTENTIONS**

He finished his 20 years of service as a member of the Inactive Ready Reserve (IRR) and was told he would get a Reserve retirement under the provisions of the 1993 Temporary Early Retirement Act (TERA). He would not have resigned from the Air National Guard (ANG) if he were not offered his program because he was less than 2 years from completing 20 years of service.

The applicant’s complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force Reserve (AFR) staff sergeant (E-5).

Dated 6 Nov 94, Special Order **Work-Pro...** indicates the applicant was discharged from the ANG and transferred to the AFR, assigned to HQ ARPC, effective 16 Nov 94.

Dated 30 Sep 96, Reserve Order **Work-Product** indicates the applicant was honorably discharged from the AFR, effective 28 Sep 96.

For more information, see the excerpt of the applicant’s record at Exhibit B and the advisory at Exhibit C.

**AIR FORCE EVALUATION**

ARPC/DPTS recommends granting the applicant’s request for retired pay by correcting his records to show he transferred to the Retired Reserve List (RRL) and by directing the applicant to begin the retirement pay process by submitting the required DD Form 2656, *Data for Payment of Retired Personnel*, to ARPC via myPers. An audit of the applicant’s record revealed he was released from the ANG and transferred to the HQ ARPC, Non-Obligated, Non-Participating, Ready Personnel Section, on 16 Nov 94. At the time of the applicant’s discharge from the AFR, 28 Sep 96, he had completed 17 years, 6 months, and 1 day of satisfactory service. The applicant

was not eligible for retirement under the TERA program because this program was only for Regular Air Force members that had completed 15 years of active duty service, not Reserve/Guard members. ARPC cannot speak to what the applicant may or may not have been told by his previous unit regarding applying for retirement. At the time of the applicant's discharge, the applicant was eligible to retire under the Temporary Special Retirement Qualifications Authority, per Title 10, United States Code (U.S.C.), Chapter 1223, Section 12731a, with 15 but less than 20 years of satisfactory service. The applicant was required to apply for transfer to the RRL. ARPC did not receive a retirement application from the applicant.

The complete advisory opinion is at Exhibit C.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 7 Dec 21 for comment (Exhibit D), but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.
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/DPTS and finds a preponderance of the evidence substantiates the applicant's contentions. In particular, the Board finds the applicant is eligible to retire under the Temporary Special Retirement Qualifications Authority, per Title 10, United States Code (U.S.C.), Chapter 1223, Section 12731a, with 15 but less than 20 years of satisfactory service. 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 the APPLICANT be corrected to show the following:

- a. Rescind Reserve Order Work-Product, which indicates he was honorably discharged from the Air Force Reserve.
- b. On 16 November 1994, he was transferred to the Retired Reserve List with the highest grade held as technical sergeant (E-6).
- c. His election of the Survivor Benefit Plan option will be corrected in accordance with his expressed preferences and/or as otherwise provided for by law or the Code of Federal Regulations.

Once the applicant has been notified his records were corrected, he will need to begin the retirement pay process as outlined in the notification letter.

## CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-00341 in Executive Session on 26 Jan 22:

, Panel Chair  
, Panel Member  
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 20 Sep 20.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory opinion, ARPC/DPTS, atchs, dated 17 May 21.  
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 7 Dec 21.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

X

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Board Operations Manager, AFBCMR