

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

XXXXXXXXXXXXX

DOCKET NUMBER: BC-2021-00667

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The Board reconsider his request to correct his separation status to retirement eligible and place him on the Reserve Retired List.

RESUME OF THE CASE

The applicant is a retired Air Force master sergeant (E-7).

On 20 Jan 22 and 19 Feb 22, the Board considered and denied the applicant's request to correct his separation status to retirement eligible and place him on the Reserve Retired List; finding the applicant had provided insufficient evidence of an error or injustice to justify relief.

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 E.

In view of Air Force guidance regarding the requirement for formal counseling for eligible members electing discharge vice retirement, and upon review of similar case outcomes, the Board agreed to reconsider the applicant's request on our own motion.

On 23 Oct 18, according to the applicant's Military Personnel Data System Service History, he was credited with 20 years satisfactory service following Retention/Retirement (R/R) year 24 Oct 17 to 23 Oct 18.

On 13 Sep 19, according to Reserve Order XXXX, dated 17 Jul 19, the applicant was honorably discharged from the Air Force Reserve.

On 6 May 20, after his discharge, HQ ARPC/DPTT sent the applicant the standard Notification of Eligibility for retired pay (20-year letter), provided by the applicant, informing him he has completed the required years under the provisions of Title 10 United States Code, Section 12731 (10 U.S.C. § 12731), and is entitled to retired pay upon application prior to age 60. In addition, he was eligible to participate in the RCSBP.

APPLICABLE AUTHORITY/GUIDANCE

Air Force Instruction 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, dated 14 Apr 05. Paragraph 1.2.1. *Former Members*. All members who are eligible for transfer to the Retired Reserve and choose discharge must be formally counseled concerning this policy and its effects on their benefits.

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 finds a preponderance of the evidence substantiates the applicant's contentions and has determined if the applicant had known the proper procedures for the retirement application process, he would have adhered to them since he served sufficient time to be eligible for a Reserve retirement. To deny relief in this circumstance would be to place form over substance, to the detriment of the applicant. Therefore, the Board recommends correcting the record as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show he was not discharged from the Air Force Reserve on 13 Sep 19, but on that date, he was assigned to the Retired Reserve Section, and his name was placed on the Retired Reserve List, and he was eligible for retired pay at age 60, under the provisions of 10 U.S.C. § 12731, or, if applicable, under reduced retired pay age authorized by the National Defense Authorization Act for 2008.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2021-00667 in Executive Session on 16 Feb 23:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit E: Record of Proceedings, w/ Exhibits A-D, dated 7 Apr 22.
Exhibit F: Application, DD Form 149, w/atchs, dated 15 Jan 21.
Exhibit G: Documentary evidence, including relevant excerpts from official records.

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.

X

Board Operations Manager, AFBCMR