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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-01541

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His no pay status be corrected to make him eligible for separation pay and subsequently removing his debt.

APPLICANT'S CONTENTIONS

He was discharged due to reaching his high-year tenure and was qualified for separation pay pending Individual Ready Reserve (IRR) agreement. He agreed to serve in the IRR not less than three years and the payments he received were part of his honorable discharge separation pay however, he was erroneously placed in a no pay status and the injustice has prompted a debt of \$27,747.03. He was assigned to an active association unit where regular Air Force personnel worked side-by-side with Guard personnel. It was a new joint effort and personnel and finance duties were split between two separate bases where there was uncertainty among which base was the primary or secondary service to active duty personnel and finance actions. The error made to his no pay status and the debt incurred is directly affecting his family.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force senior airman (E-4).

On 3 Feb 17, according to AF Form 3070A, *Record of Nonjudicial Punishment Proceedings (AB thru SSgt)*, the applicant received non-judicial punishment under Article 15, Uniform Code of Military Justice (UCMJ), for willfully failing to refrain from using his Government Travel Card for unauthorized purposes, in violation of Article 92, UCMJ. He received a reduction from the grade of staff sergeant to senior airman with a new date of rank of 3 Feb 17.

On 29 Mar 17, according to CMS 2098, *Duty Status Change*, the applicant was pending an administrative discharge but failed to report to duty. His duty status changed from present for duty to absent without leave (AWOL).

On 31 Mar 17, according to the unit commander's 72-hour inquiry letter, the applicant was pending an administrative discharge action for drug abuse in accordance with AFD 36-32, *Military Retirements and Separation* and AFI 36-3208, *Administrative Separation of Airmen*, paragraph 5.54.

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On 5 Apr 17, according to CMS 2098, the applicant's commander made contact with the applicant and it was determined he had no intention of returning to duty. His duty status changed from AWOL to deserter.

On 7 Apr 17, according to CMS 2098, the applicant surrendered himself to military custody. His duty status changed from deserter to present for duty.

On 21 Apr 17, according to AF Form 3070A, the applicant received non-judicial punishment under Article 15, UCMJ, for desertion, in violation of Article 85, UCMJ. He received a reprimand, restriction to the limits of the base and extra duty for 45 days.

On 24 May 17, the applicant's Enlisted Performance Report for the period of 1 Feb 16 thru 31 Jan 17, was referred to him for a rating of "Met some but not all expectations" in Section IV *Followership/Leadership*, Item 1, (*Resource Utilization (e.g. Time Management, Equipment, Manpower, and Budget)*) and a comment relative to him failing a commander directed urinalysis. Specifically, the applicant tested positive for multiple prescription narcotics.

The applicant provided a signed copy of an IRR agreement indicating his agreement to serve in the IRR for a period of not less than three years, dated 2 Jun 17.

On 2 Jun 17, according to AF IMT 100, *Request and Authorization for Separation*, the applicant failed to sign and return the IRR agreement and is not entitled to separation pay.

On 3 Jun 17, according to the applicant's DD Form 214, *Certificate of Release or Discharge from Active Duty*, he was discharged with an honorable character of service, separation code of "KBK" (completion of required active service) and reentry code of "4D" (senior airman or sergeant with at least 9 years total active federal military service but fewer than 16 years). The applicant was credited with 9 years and 11 months of active service and 9 days of lost time during this period was 29 Mar 17 through 6 Apr 17.

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

APPLICABLE AUTHORITY

According to Air Force Instruction 36-3203, *Service Retirements*, dated 18 Sep 15, the High Year of Tenure (HYT) for senior airmen was set at 8 years of service.

According to AFI 36-3208, para. 5.54. Drug abuse is incompatible with military service and airmen who abuse drugs one or more times are subject to discharge for misconduct.

Para 1.21.5. Do not use the results of mandatory drug testing for controlled substances if the testing was conducted during a command-directed examination or command directed referral of a specific member to determine

Para 9.2 Full separation pay (non-disability). Members involuntarily separated from AD may be entitled to full separation pay if they meet the criteria (1) ... the member must agree in writing to serve in the Ready Reserve for at least 3 years following the separation from active duty. A member who qualifies for separation pay, but is unqualified for the Ready Reserves still must agree in writing to serve in the Ready Reserve in order to receive separation pay. (2) Member is denied reenlistment under High Year Tenure (HYT) policy. This applies only to the E-4 HYT program since members have 20 years or more of service in all other HYT program.

AIR FORCE EVALUATION

HQ AFPC/DP2SSR recommends denying the application. The applicant's date of separation (DOS) of 6 Jun 17 has been confirmed in both the applicant's record and the military personnel database. The applicant was eligible to receive separation pay, but was required to submit a signed IRR agreement in a timely manner so that his separation orders could be accomplished authorizing separation pay with the appropriate separation program designator (SPD) code. After conducting a thorough research of computer files in the Right Now Technology (RNT) system which is linked with MyPERS, the applicant failed to provide his signed IRR agreement and his separation orders were prepared on 2 Jun 17 indicating that he was not authorized separation pay as a result. His DD Form 214 was subsequently prepared on 19 Jun 17. At no time does it appear that the applicant contacted the Total Force Service Center regarding his IRR agreement and separation pay. Based on review of the master of personnel records and the applicant's request, there is no error or injustice with the discharge processing.

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 22 Nov 21 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence.
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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP2SSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the applicant provided a signed copy of the IRR agreement, dated 2 Jun 17, there is no evidence of the agreement in his official military personnel records nor that the applicant submitted the agreement in a timely manner. Additionally, the applicant contends that the errors made to his no pay status and the debt incurred is directly affecting his family, however, he has provided insufficient evidence to support this claim. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

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-2021-01541 in Executive Session on 11 Jan 22:

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Panel Chair

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Panel Member

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Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 16 Feb 21 and 15 Mar 21.

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

Exhibit C: Advisory Opinion, HQ AFPC/DP2SSR, dated 16 Jun 21.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 22 Nov 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.

8/25/2025

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Associate Director, AFBCMR

Signed by: USAF

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