

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-02496

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

His record of service be corrected to apply a re-computation of his retired pay, upon 62 years of age.

### APPLICANT'S CONTENTIONS

He was not informed at his retirement briefing 28 years ago that he had to register for any program prior to retirement or that he had to perform any public or community service prior to the date that he would complete 20 years of service. Had he known this, he would not have initially pursued a career with the Department of Defense as a civilian.

He thought the recalculation of his retirement pay would happen automatically with the Defense Finance and Accounting Service (DFAS), but he did not see any changes to his Jun 21 retirement pay. He reached out to DFAS and was told to contact the Total Force Service Center (TFSC). The TFSC advised him to request reconsideration through the Air Force Review Board Agency.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air Force staff sergeant (E-5).

On 3 May 93, according to AF Form 1160, *Military Retirement Actions*, section IV, Remarks, the applicant acknowledged, "I understand that I must register on the Public and Community Service Registry [PACS] at the Family Support Center and that my retirement cannot be consummated until my registration has been confirmed."

On 30 Sep 93, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was separated from active duty for the purpose of retirement. Item 18 (Remarks) states "*Member is retiring as provided by Section 4403 of the FY93 National Defense Authorization Act (PL 102-484) and may qualify for a recomputation of retired pay at age 62 pursuant to Section 4464 of the same law.*" He was credited with 17 years, 1 month, and 4 days of active service.

On 1 Oct 93, under Special Orders No. Work-Product, dated 3 Jul 93, the applicant retired.

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

### AIR FORCE EVALUATION

AFPC/DP2SSR recommends denying the application. Congress enacted the Temporary Early Retirement Authority (TERA) program pursuant to the FY93 National Defense Authorization Act (NDAA), which permitted selected military members to retire early with more than 15 but less than 20 years of active service. Section 4464 of the FY93 NDAA allowed eligible members retired under TERA to perform PACS following retirement and receive credit for this service to be used to re-compute military retired pay, and where applicable, the Survivor Benefit Plan base amount when the retired member attains or would have attained 62 years of age. PACS job vacancies included education, conservation, environmental protection, law enforcement, and public health care positions.

Program management was established and announced to the Services through the Assistant Secretary of Defense (ASD) Memorandum, *Active Duty Early Retirement Policy Guidance*, dated 12 Mar 93, and the ASD Memorandum, *Implementing Procedures for Temporary Early Retirement Authority (TERA) Programs*, dated 22 Apr 93. The Air Force also provided specific instructions to the field through a Military Personnel Flight Letter 93-024, *Voluntary Early Retirement Program*, dated 9 Apr 93. The Department of Defense (DoD) also provided specific information on obtaining PACS credit through DoD Instruction 1340.19, *Certification of Public and Community Service Employment of Military Retirees*, dated 17 Nov 93.

The NDAA required members retiring under TERA to register in advance of the projected retirement date on the PACS Registry maintained under Title United States Code, Section 1143a. Members were required to turn in proof of PACS to the Defense Manpower Data Center (DMDC) team no later than one year after they would have attained 20 years Total Active Federal Military Service had they been continuously on active duty. This date is referred to as the individual's Enhanced Retirement Qualification Period (ERQP). The applicant retired on 1 Jun 94 and was credited with 17 years, 10 months, and 17 days of active service; therefore, any creditable service must have been completed prior to 14 Jul 96 (the end of his ERQP). Based on the reporting instructions established by the DMDC, the applicant was required to submit record of the creditable service within a year of that point (or Jul 97). The DMDC does not have any record that the applicant applied for PACS. The law allows no provision to retroactively register for employment with PACS organizations. Had the applicant properly registered within the allotted time period and provided the required documentation, he would have been eligible to receive credit for the time served under the PACS program.

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 21 Jun 22 for comment (Exhibit D) 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 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. Therefore, the Board recommends against correcting the applicant's records.

## **RECOMMENDATION**

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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-2021-02496 in Executive Session on 29 Sep 22:

- , Panel Chair
- , Panel Member
- , Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 27 Jul 21.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2SSR, dated 3 Jan 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Jun 22.

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