

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-02594

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Correct his military record to:

1. Reinstate him to the correct retirement status; from "24X (Former Member)" to "X9 (Reserve Retirement) or YB (Reserve Drawing Pay)."
2. Allow issuance of identification and privilege cards to him and his spouse. **(pending administrative correction)**
3. Provide a copy of his DD Form 256, *Honorable Discharge Certificate*. **(pending administrative correction)**

APPLICANT'S CONTENTIONS

He is requesting he be reinstated in the correct status to allow him and his spouse to receive full benefits, such as commissary, exchange, morale and welfare activities while he awaits retirement eligibility at age 60.

He recently tried to renew military identification cards for himself and his spouse; however, due to COVID-19 and limited access to base facilities, the cards expired. Once he was able to secure an appointment, the representative stated he could not obtain new identification cards as the system was rejecting the process and his status was not correct. The representative told him he "needed to correct his member record and/or ID account in MyPers and DEERS from 24X to X9 or YB, pending full retirement age, so he and his spouse could obtain identification cards."

Subsequently, after a review of his records, he learned he was erroneously recommended for discharge in 2011 opposed to retiring. He always believed and understood he was in a waiting period and the system transferred him to various categories of inactive reserves until he applied for permanent retirement and pay at age 60. He was never supplied a retirement briefing or seminar that explained the process in depth, nor had he ever received any instruction to change or apply for any other status.

He had obtained new identification cards in 2016, and at that time, no one reviewing his records mentioned his mistaken status. Finally, in 2018, while speaking with a MyPers-TFSC representative regarding his point summary, nothing was noted about an erroneous status, nor was he instructed to take corrective action. His status error was not due to malfeasance or ill will; however, it is a significant error which affects his status and benefits through no fault of his own.

He is a 20 percent disabled veteran with 23 years, 4 months, and 5 days satisfactory and honorable service, and implores the Board to correct his military record to reinstate and restore his status and ability to obtain identification cards for himself and his spouse.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former member, honorably discharged from the Air Force Reserve Inactive Status List Reserve Section (ISLRS), in the grade of major (O-4).

On 22 May 11, the applicant was honorably discharged from the Air National Guard, with Authority and Reason: AFI 36-3209, Paragraph 2.25.3., When Authorized by State/Territory Law/No MSO applies for transfer to ARPC, and credited with 23 years, 4 months, 5 days total service for retired pay.

On 23 May 11, according to Special Order XXXXXX, dated 29 Jun 11, the applicant was transferred to the United States Air Force Reserve (USAFR) and assigned to Headquarters, Air Reserve Personnel Center (HQ ARPC).

On 15 Nov 12, according to documentation provided by the applicant, HQ ARPC notified the applicant, via memorandum, Subject: Projected Assignment to the Inactive Status List Reserve Section, of his projected transfer from the Non-Affiliated Reserve Section to the Inactive Status List Reserve Section, and provided guidance regarding his status.

On 23 May 13, according to Reserve Order XXXXXX, dated 28 May 13, the applicant was reassigned from the Non-Affiliated Reserve (NARS) to the Inactive Status List Reserve Section (ISLRS), Reserve Section: RB, Reserve Status: Standby.

On 10 Dec 15, HQ ARPC notified the applicant, via memorandum, Subject: Review of Inactive Status List Reserve Section, of his assignment to ISLRS for two and a half years, and provided guidance regarding his status.

On 31 May 16, according to Reserve Order XXXXXX, dated 11 Jul 16, the applicant was relieved from assignment, HQ ARPC (ISLRS), and honorably discharged from all appointments in the United States Air Force.

On 5 Aug 21, after his discharge, HQ ARPC/DPTT notified the applicant, via memorandum, Subject: Notification of Eligibility for Reserve Retired Pay at Age 60, that he had completed the required years of service under Title 10, United States Code, Section 12731, and was entitled to retired pay upon application, normally at age 60.

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

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.

AIR FORCE EVALUATION

ARPC/DPTT recommends denying the applicant's request for a reserve retirement. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice because the applicant did not apply to be transferred to the Retired Reserve prior to being discharged.

A review of the applicant's record reflects he received the Notification of Eligibility for Reserve Retired Pay at Age 60 letter, he was transferred to the ISLRS on 28 May 13, and was discharged from ISLRS, effective 31 May 16, and a discharge order was provided.

In accordance with AFI 36-3203, paragraph 9.4.10., transfer to the Retired Reserve is not automatic; members must apply online through vPC for transfer to the Retired Reserve. The applicant is eligible for a former member identification card at this time, and is still eligible to apply for reserve retired pay at age 60 (or at an approved reduced retirement pay age, if applicable).

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 24 Mar 22 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. While the Board notes the recommendation of ARPC/DPTT against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. The Board finds that 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. The applicant states and the Board agrees that it is a significant error which affects his status and benefits through no fault of his own and 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.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

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 31 May 2016, but on that date, he was assigned to the Retired Reserve Section, and his name was placed on the Retired Reserve List, and is eligible for retired pay at age 60, under the provisions of Title 10, United States Code, Section 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-02594 in Executive Session on 31 May 22 and 11 Apr 23:

, Panel Chair
, Panel Member

, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 3 Aug 21.

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

Exhibit C: Advisory opinion, ARPC/DPTT, w/atchs, dated 14 Mar 22.

Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 24 Mar 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

Board Operations Manager, AFBCMR