

RECORD OF PROCEEDINGS

IN THE MATTER OF:

XXXXXXXXXXXXXX

DOCKET NUMBER: BC-2021-03176

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. Her record be corrected to show she transferred to the Individual Ready Reserve (IRR).
2. She be given points credit (constructive credit).
3. She be promoted to the rank of major (O-4).
4. She be retired from the Air National Guard (ANG) and assigned to the Retired Reserve.

APPLICANT'S CONTENTIONS

She was non-retained from her unit which prevented her from transferring to another unit within the state. She spoke with a representative at the Air Reserve Personnel Center (ARPC) regarding transfer to the IRR and pursued this option, out-processing from her unit on 8 Dec 17. She waited to receive information about what to do next, but did not receive it. She did not realize she had not officially transferred to the IRR until she received an email in May 19 stating she was still on the [State] Air National Guard (ANG) manning document. She pursued the transfer to the IRR in order to receive a promotion to the rank of major, as well as time and opportunity to align herself with another unit.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former ANG captain (O-3).

Dated 7 Dec 17, the applicant provided a memorandum requesting a transfer to the IRR, effective 1 Jan 18, indicating she was applying for a position with her previous unit.

On 31 Dec 17, according to NGB Form 22, *National Guard Bureau Report of Separation and Record of Service*, the applicant was honorably discharged from the ANG after serving 31 years, 2 months, and 12 days of total service for pay. She was discharged, with a narrative reason for separation "Selective Retention Board Action – Fail to Apply for Retirement."

Dated 2 Apr 18, Special Order XXXX indicates the applicant was promoted to the rank of major with an effective date and date of rank of 20 Apr 18.

Dated 23 Jun 18, Special Order XXXX indicates the applicant was honorably discharged from the [State] ANG, effective 31 Dec 17.

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

AIR FORCE EVALUATION

ARPC/DPT recommends partially granting the applicant's request by reassigning her to the Inactive Status List Reserve Section (ISLRS) with an effective date of 1 Jan 18 and transferring her to the Retired Reserve awaiting pay at age 60 with an effective date of 1 Jan 21 in the grade of captain. ARPC/DPT recommends denying the applicant's request to transfer to the IRR, receive points credit, and the promotion to major.

According to the Military Personnel Data System (MilPDS), the applicant was projected for separation from the [State] ANG on 31 Dec 17, based on her request to transfer to the IRR; however, that officer separation line in MilPDS was canceled. The [State] ANG subsequently requested ARPC separate her from her unit on 13 Aug 19 using the separation code "JNF" per AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, paragraph 2.25.1, which denotes selective retention board action-fail to apply for retirement. This action transferred the applicant in MilPDS to the discharge personnel accounting symbol code of XXXXX based on the use of that separation code and the fact that the applicant had already been credited with 31 years of satisfactory service. If the applicant had been transferred to the IRR as she originally requested, AFI 36-2115, *Assignments within the Reserve Component (RC)*, Table 4.2, Rule 24, would have only allowed the applicant to be transferred to the ISLRS, because she was making a voluntary transfer to ARPC with more than 20 years of satisfactory service being credited to her. This section of the Standby Reserve precludes the applicant from receiving retirement points, satisfactory service credit, and eligibility for promotion. Furthermore, DoDI 1215.07, *Service Credit for Non-Regular Retirement*, dated 30 Jul 19, paragraph 3.3.d states "RC members in an inactive status in accordance with Section 10152 of Title 10, U.S.C. may not receive service credit for retirement pursuant to Section 12734(a) of Title 10, U.S.C. Individuals who have completed the service requirement for retired pay and have not attained the age specified in Section 12731(f) of Title 10, U.S.C. may transfer to an inactive status, but may not receive retirement point credit in that status."

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 5 Aug 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 the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/DPT and finds a preponderance of the evidence substantiates the applicant's contentions in part. Specifically, the applicant has provided an email chain from her unit and a letter showing she attempted to be transferred to the ISLRS, which is sufficient to justify granting the applicant's request to be transferred to the Retired Reserve. However, for the remainder of the applicant's request to transfer to the IRR, receive points credit, and promotion to major, the evidence presented did not demonstrate an error or injustice; therefore, the Board finds no basis to recommend granting that portion of the applicant's request. The applicant had over 20 years of satisfactory service and was not eligible to be transferred to the IRR, nor was she eligible for promotion or retirement

points and satisfactory service credit per AFI 36-2115 and DoDI 1215.07. Accordingly, the Board recommends correcting the applicant's records 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 the APPLICANT be corrected to show the following:

a. On 1 January 2018, she was reassigned to the Inactive Status List Reserve Section (ISLRS).

b. On 1 January 2021, she was transferred to the Retired Reserve awaiting pay at age 60, in the rank of captain (O-3).

However, regarding the remainder of the applicant's request to transfer to the IRR, receive points credit, and the promotion to major, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

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-2021-03176 in Executive Session on 21 Jul 22 and 29 Sep 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 21 Sep 21.

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

Exhibit C: Advisory Opinion, ARPC/DPT, w/atchs, dated 19 Jul 22.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 5 Aug 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