



UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03274

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Correct his official military record to allow receipt of his retirement pay.

APPLICANT'S CONTENTIONS

When he was medically separated from the Air National Guard, he was not placed on inactive non-pay reserve status, so he cannot receive his retired pay. He has 19 years, 11 months, and 8 days time in service, and he is already past his 60th birthday.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

According to documentation provided by the applicant, he is retired Air National Guard technical sergeant (E-6) awaiting retired pay at age 60.

On 17 Sep 99, according to AF Form 422, *Physical Profile Serial Report*, provided by the applicant, he was placed on a 4T profile for failure to meet medical requirements.

On 5 Jan 00, according to AF Form 618, *Medical Board Report*, provided by the applicant, he was approved for medical discharge due to a diagnosis of paranoid schizophrenia.

On 20 Jan 01, according to NGB Form 22, *Report of Separation and Record of Service*, provided by the applicant, he was furnished an honorable discharge, with Authority and Reason: AFI 36-3209, para 5.8.2.5., Retirement – Medical Disqualification; SPD: SBD [Transfer to the USAF Reserve Retired List – Retirement Mandatory/Age 60 or above], and credited with 19 years, 11 months, 8 days total service for pay.

For more information, see the advisory at Exhibit B.

APPLICABLE AUTHORITY/GUIDANCE

10 U.S. Code § 12731b. Special rule for members with physical disabilities not incurred in line of duty

(a) In the case of a member of the Selected Reserve of a reserve component who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability, the Secretary concerned may, for purposes of section 12731 of this title, determine to treat the member as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member has completed at least 15, and less than 20, years of service computed under section 12732 of this title.

(b) Notification under subsection (a) may not be made if—

(1) the disability was the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned; or

(2) the disability was incurred during a period of unauthorized absence.

Air Force Instruction (AFI) 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, Chapter 5, *Retirement*:

5.8. *Categories of Personnel Who Are Eligible for Transfer to the Retired Reserve.*

5.8.2. Transfer to the Retired Reserve is not automatic and an AF Form 131 must be submitted for:

5.8.2.5. Reserve members not on EAD who have been found physically disqualified are discharged, retained, or Transferred to the Retired Reserve if they apply and meet the requirements outlined in Title 10 U.S.C., Section 12731. Effective date will normally be 30 days from date of application.

AIR FORCE EVALUATION

HQ ARPC/DPTT recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. Additionally, there is no evidence of an attempt by the applicant to apply for a Reserve retirement upon being medically discharged.

Upon review of the documents provided by the applicant, ARPC was unable to determine if he received Special Separation Pay as stated in the NGB Form 22, Block 18. Remarks, "...MEMBER AUTH SPECIAL SEPARATION PAY (SSP) IN ACCORDANCE WITH PUBLIC LAW 102-484, 23 OCT 92." The National Personnel Records Center was unable to provide the applicant's records; therefore, ARPC would need to be provided additional source documentation stating the applicant did not elect to receive the SSP and chose to be placed on the Reserve retired list.

The complete advisory opinion is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 29 Aug 22 for comment (Exhibit C) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. 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. The Board does not find it in the interest of justice to waive the three-year filing requirement..

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 HQ ARPC/DPTT and finds a preponderance of the evidence does not substantiate the applicant's contentions. There is insufficient documented evidence to determine if the applicant elected to receive SSP or chose to be placed on the Reserve retired list. Should the applicant provide evidence he elected a reserve retirement in lieu of SSP, the Board may be willing to reconsider his request. 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-2021-03274 in Executive Session on 10 Jan 23:

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, Panel Chair
Panel Member
Panel Member

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

Exhibit A: Application, DD Form 149, dated 11 Sep 21.

Exhibit B: Advisory Opinion, HQ ARPC/DPTT, dated 22 Jul 22.

Exhibit C: Notification of Advisory, SAF/MRBC to Applicant, dated 29 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.

4/13/2025

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