

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03477

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Correct his official military record to reflect Reserve Retired status by changing his Personnel Accounting Symbol (PAS) Code from 24X to X9.

APPLICANT'S CONTENTIONS

He needs help correcting his military retirement pay with the Defense Finance and Accounting Service (DFAS). His status was processed by DFAS as 24X but, according to the Total Force Service Center (TFSC), it should be X9 for full retirement. The TFSC had advised him before retirement orders were completed to file with the Air Force Board for Correction of Military Records (AFBCMR) and he did. He did exhaust other administrative avenues of relief prior to applying to the AFBCMR. Please expedite as his bill are not getting paid.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former member Air Force Reserve master sergeant (E-7).

As of 26 Nov 02, according to 20-year letter (Notification of Eligibility for Reserve Retired Pay) dated 25 Feb 03, the applicant accumulated sufficient points for retired pay.

On 18 May 10, according to Reserve Order XXXXX, dated 1 Jun 10, the applicant was honorably discharged from the Air Force Reserve.

On 25 Feb 22, according to Reserve Order XXXXX, dated 4 Mar 22, provided by the applicant, he was authorized retired pay and placed on the USAF Retired List.

On 25 Feb 22, according to HQ ARPC/DPTT letter, dated 14 Apr 22, provided by the applicant, he completed the service requirements to draw retired pay beginning on that date, with the approximate gross monthly pay of \$1,949.04.

On 22 Apr 22, according to DFAS letter, provided by the applicant, in response to his request for computation of his retired pay, his initial monthly gross pay is calculated to be \$1,455.00.

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 (AFI) 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 application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice.

A review of the applicant's Military Personnel Record shows the applicant did not submit an application to transfer to the Reserve Retired List prior to being discharged and becoming a Former Member. The applicant was discharged from the United States Air Force Reserve effective 18 May 10.

In accordance with AFI 36-3203, *Service Retirements*, paragraph 9.3., "Former Members. A former member is an individual who qualified for retirement but elected not to transfer to the retired reserve and was subsequently discharged for physical disqualification, misconduct, upon expiration of the member's contract, or resigned the officer's commission. These members have no military status but are authorized certain entitlements and benefits in accordance with AFI 36-3026V1_IP, *Identification Cards for Members of the Uniformed Services, Their Eligible Family Members, and Other Eligible Personnel.*"

There was not an attempt from the applicant to apply for a Reserve retirement upon being discharged. The applicant initiated a retirement application for retired pay on 28 Oct 11, to be effective 25 Feb 22, which has been approved.

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 3 Oct 22 for comment (Exhibit D), and the applicant replied on 6 Oct 22. In his response, the applicant contended he strongly disagreed with the advisory opinion as he was not discharged for any physical disqualification or misconduct and there is nothing in his records stating this information. He is Retired Reserve and served 28 years and 10 months, both active duty and reserve. Why would he be denied full retirement and benefits for his lifetime of service in the Air Force? He is entitled, he served, and deserves all the benefits after 28 years of service.

He did, in fact, apply and submitted for Reserve Retirement/Retirement List prior to being discharged from his last unit. Documentation was submitted by Air Reserve Technician personnel at the unit. This is the first he is hearing that Air Reserve Personnel Center (ARPC) does not have record of his documentation to transfer to the Reserve Retired List. It is his opinion ARPC made the errors, injustice, and lost the documents.

The advisory states he initiated a retirement application for retired pay on 28 Oct 11, to be effective 25 Feb 22, but he does not remember this date or have a record of a document with this date. The Air Force sent him a letter, dated 14 Apr 22, that stated his approximate gross monthly pay would be \$1,949.04. DFAS has paid him \$1,455 a month for retirement pay, which is incorrect. His Reserve Order XXXXX states he is placed on the USAF Retired List.

His position as Radio Communications System Repairman Specialist with the unit was being eliminated and he was advised by his commander of his options to transfer to another unit or retire. He applied and submitted for retirement prior to the last day at his unit.

The applicant's complete response is at Exhibit E.

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. 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. 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.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that he was not discharged from the Air Force Reserve on 18 May 2010, but on that date, he was assigned to the Retired Reserve Section, and his name was placed on the Retired Reserve List, and he was eligible for retired pay at age 60 effective 25 February 2022, under the provisions of Title 10, United States Code, Section 12731.

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-2021-03477 in Executive Session on 11 Apr 23:

, 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 27 Oct 21.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 14 Sep 22.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Oct 22.
Exhibit E: Applicant's Response, w/atchs, dated 6 Oct 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