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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03821

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Correct his official military record to reflect Retired Reserve status vice 24X status.

APPLICANT'S CONTENTIONS

He faithfully served on active duty in the United States Air Force Reserve and deployed to the Persian Gulf War on several deployments. He was unable to retain his security clearance due to financial issues and his commander allowed him to stay in the unit until he reached his 20 years of good service. He was approved by his commander to enter the Individual Ready Reserve (IRR) at the end of his enlistment.

He was placed in IRR status in 2017 and was not moved to retirement status before his Expiration Term of Service on 7 Jun 20. He received his 20-year letter (Notification of Eligibility for Reserve Retired Pay) on 5 Nov 20. The Defense Enrollment Eligibility Reporting System had previously informed him he was eligible for retired pay as of his 58th birthday due to his deployments and he was eligible for TRICARE as of age 60. He was also advised he could receive a retired military identification card.

He received his Expiration Term of Service (ETS) letter, dated 16 Oct 19, informing him of his approaching ETS on 7 Jun 20. In reading the letter, he was under the impression he would be placed into the Retired Reserve status. He did not realize he had to file for retirement prior to 7 Jun 20 to be placed in retirement status instead of discharged status. He contacted myPers and learned he was placed in status code 24X and was not eligible to retire. He would have to contact the Air Force Board for Correction of Military Records to change his status from 24X to a retired status. He is requesting his records be corrected and he be allowed to receive the benefits he earned during his time in service.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former member Air Force Reserve technical sergeant (E-6).

On 1 Jun 16, according to the applicant's Military Personnel Data System Service History, he was credited with 20 years satisfactory service following Retention/Retirement year 2 Jun 15 to 1 Jun 16.

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

On 1 Nov 17, according to Reserve Order Work-Product dated 18 Oct 17, the applicant was transferred to the Individual Ready Reserve.

On 7 Jun 20, according to HQ ARPC/DPTTS memorandum, dated 16 Oct 19, provided by the applicant, he reached his ETS with the Air Force Reserve.

On 8 Jun 20, according to HQ ARPC/DPTT memorandum, dated 17 Mar 22, the applicant was discharged from the Air Force Reserve.

On 5 Nov 20, after his discharge, according to a document provided by the applicant, HQ ARPC/DPTT sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing him he has completed the required years under the provisions of Title 10 United States Code, Section 12731 (10 U.S.C. § 12731), and is entitled to retired pay upon application prior to age 60. In addition, he was eligible to participate in the RCSBP.

In view of Air Force guidance regarding the requirement for formal counseling for eligible members electing discharge vice retirement, and upon review of similar case outcomes, the Board agreed to reconsider the applicant's request on our own motion.

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 because the applicant did not apply to be transferred to the Retired Reserve. According to the Military Personnel Data System, the applicant was discharged effective 8 Jun 20. Per 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 date, 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 7 Jun 22 for comment (Exhibit D), and the applicant replied on 20 Sep 22. In his response, the applicant contended he did not know the process [to apply for retirement] and reached out to the Air Reserve Personnel Center (ARPC) through myPers and emails on multiple occasions for assistance. He also reached out to former leadership for advice and letters of recommendation. Further, he asked if there was anything he could do to change his current status to retired, or if this was a final determination with no chance to appeal.

As a reservist, he was not briefed on the procedure to enter the retired reserve and still does not understand what needs to be accomplished. His wing did not prepare him for this during his out-processing into the IRR. He also wanted to mention the difficulties faced with communicating this process with ARPC throughout the COVID-19 crisis. He provided his 20-year letter showing he completed the required number of years for retirement. Also provided was a copy of the ARPC letter notifying him of his approaching ETS and statements of support from his spouse and from his former military supervisor.

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.
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 that he was not discharged from the Air Force Reserve on 8 Jun 20, 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, under the provisions of 10 U.S.C. § 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 Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2021-03821 in Executive Session on 18 Aug 22, 27 Oct 22, and 16 Feb 23:

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, Panel Chair

Panel Member

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Panel Member

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

Exhibit A: Application, DD Form 149, dated 3 Nov 21.

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

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Exhibit C: Advisory Opinion, ARPC/DPTT, w/atch, dated 17 Mar 22.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 7 Jun 22.
Exhibit E: Applicant Response, w/atchs, dated 20 Sep 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

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Board Operations Manager, AFBCMR

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