

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00180

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her retired pay be adjusted at age 62 under the Temporary Early Retirement Authority (TERA) program.

APPLICANT'S CONTENTIONS

She retired as provided by Section 4403 of the Fiscal Year 1993 National Defense Authorization Act (FY93 NDAA), Public Law (PL) 102-484 and may qualify for a recomputation of retired pay at age 62 pursuant to Section 4464 of the same law.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force staff sergeant (E-5).

On 1 February 1994, according to AF Form 1160, *Military Retirement Actions*, Section IV Remarks, the applicant acknowledged, "I understand that I must register on the Public and Community Service Registry at the Family Services Support Center and that my retirement cannot be consummated until my registration has been confirmed."

On 31 January 1995, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, she was released from active duty for the purpose of retirement. Item 18. *Remarks* reflects "*Member is retiring as provided by Section 4403 of the FY93 National Defense Authorization Act (PL 102-484) and may qualify for a recomputation of retired pay at age 62 pursuant to Section 4464 of the same law.*" She was credited with 15 years and 22 days of active service.

On 1 February 1995, according to Special Order XX-XXXXXX, dated 9 April 1994, the applicant retired.

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

AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the application. Congress enacted the TERA program pursuant to the FY 93 NDAA, which permitted selected military members to retire with at least 15, but less than 20 years of active military service. Section 4464 of FY93 NDAA allowed eligible members retired under TERA to perform public and community service (PACS) following retirement and receive credit for this service to be used to recompute military retired pay, and where applicable, the Survivor Benefit Plan base amount when the retired member attains or would have attained 62 years of age. PACS job vacancies included education, conservation, environmental protection, law enforcement, and public health care positions.

Program management was established and announced to the Services through the Assistant Secretary of Defense (ASD) Memorandum, *Active Duty Early Retirement Policy Guidance*, dated 12 March 1993, and the ASD Memorandum, *Implementing Procedures for Temporary Early Retirement Authority (TERA) Programs*, dated 22 April 1993. The Air Force also provided specific instructions to the field through a Military Personnel Flight Letter (MPFL) 93-024, *Voluntary Early Retirement Program*, dated 9 April 1993. The Department of Defense (DoD) provided specific information on obtaining public and community service credit through DoD Instruction 1340.19, *Certification of Public and Community Service Employment of Military Retirees*, dated 17 November 1993.

Applicants were required to provide proof of PACS to the Defense Manpower Data Center (DMDC) team no later than one year after they would have attained 20 years Total Active Federal Military Service had they been continuously on active duty. This date is referred to as the individual's Enhanced Retirement Qualification Period (ERQP). The applicant retired 1 February 1995 with 15 years and 22 days of active service; therefore, any credible service must have been completed prior to 9 January 2000, the end of her ERQP. Based on reporting instructions established by DMDC, the applicant was required to submit record of the creditable service within a year of that date (or 9 January 2001). The DMDC does not have any record of the applicant's registration or completion of PACS prior to the expiration of her ERQP. The law allows no provision to retroactively register for employment in public or community service organizations.

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 12 August 2022 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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP3SA and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant provided no evidence that she registered for the PACS program prior to retirement, that she completed the required PACS, or that she provided the required proof of service to DMDC within the established timeframe. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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-2022-00180 in Executive Session on 19 January 2023:

, 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 9 December 2021.

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

Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 29 June 2022.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 12 August 2022.

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.

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Board Operations Manager, AFBCMR