



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00635

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Correct his official military record to reflect his status as Retired Reserve, awaiting retired pay at age 60.

APPLICANT'S CONTENTIONS

He has over 20 years creditable service. He applied for retirement through the Air Force Personnel Center and was denied. He was directed to submit his request to the Air Force Board for Correction of Military Records (AFBCMR).

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force Reserve master sergeant (E-7).

On 29 May 15, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant enlisted in the Air National Guard for a period of six years.

On 1 Oct 18, according to the applicant's Military Personnel Data System Service History, he was credited with 20 years satisfactory service following Retention/Retirement year 2 Oct 18 to 1 Oct 18.

On 16 Oct 18, the applicant was furnished an honorable discharge from the Air National Guard, and transferred to Headquarters, Air Reserve Personnel Center (HQ ARPC), with Authority and Reason: AFI 36-3209, Paragraph 3.12.3.4., Removal from Unit – Residence Outside Commuting Distance/No MSO Applies for TRF to ARPC/120 Days+ on ETS, SPD: L83, and credited with 20 years and 13 days total service for retired pay.

On 16 Oct 18, according to Special Order **Work-Product** dated 20 Aug 19, the applicant was honorably discharged from the Air National Guard, and effective 17 Oct 18, was transferred to the United States Air Force Reserve, and assigned to HQ ARPC.

On 11 Mar 20, ARPC/DPTT sent the applicant the standard Notification of Eligibility for Reserve Retired Pay at Age 60 (20-year letter) informing him he had completed the required years under the provisions of Title 10 United States Code, Section 12731 (10 U.S.C. § 12731) and was entitled to retired pay upon application prior to age 60.

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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 28 May 21, according to ARPC/DPTT memorandum (advisory), dated 25 Aug 22, the applicant was discharged from the Air Force Reserve.

On 8 Jul 21, according to *myPers Reserve Retirement Request Discussion Thread*, provided by the applicant, he submitted an application for reserve retirement (eligible for pay at age 60).

On 28 Sep 21, according to *myPers Reserve Retirement Request Discussion Thread*, provided by the applicant, his retirement application was disapproved because he was discharged effective 29 May 21.

On 12 Jan 22, according to *myPers Retirement – AFBCMR Discussion Thread*, provided by the applicant, he was referred to the AFBCMR.

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

APPLICABLE AUTHORITY/GUIDANCE

Air Force Instruction 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 received the Notification of Eligibility for Reserve Retired Pay at Age 60 letter, dated 11 Mar 20. On 8 Jul 21, he initiated an application for Reserve Retirement, effective 2 Aug 21; however, his request was disapproved due to his requested retirement date being after his date of discharge. On 20 Aug 19, the applicant received notification of discharge, effective 16 Oct 18. The discharge order was provided because the applicant did not request retirement via transfer to the Retired Reserve.

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 23 Aug 22, for comment (Exhibit D) but has received no response.

ADDITIONAL AIR FORCE EVALUATION

In an amended advisory, ARPC/DPTT recommends denying the application. The applicant's military personnel record was reviewed by the HQ ARPC Retirement Eligibility Section. The applicant's record shows he enlisted in the Air National Guard, via DD Form 4, on 29 May 15 for a period of six years, giving him an Expiration Term of Service (ETS) of 28 May 21. He served from 29 May 15 until discharged from the Air National Guard on 16 Oct 18 and transferred to the Individual Ready Reserve (IRR) on 17 Oct 18 to fulfil the remainder of his contract. At the time of separation, the applicant had 20 years and 13 days satisfactory service documented on the NGB Form 22, *Report of Separation and Record of Service*, and was on the 12 Dec 18 Notification of

Eligibility for Reserve Pay roster. He logged into vPC and downloaded the Notification of Eligibility for Reserve Retired Pay at Age 60 letter, dated 11 Mar 20.

The applicant was discharged from the IRR on his ETS of 28 May 21 and no longer had any military affiliation. On 8 Jul 21, he initiated an application for reserve retirement with a 2 Aug 21 effective date. His request was disapproved because his request for transfer was after his discharge date; however, the applicant may apply to receive retired pay upon his 60th birthday.

The complete amended advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 31 Oct 22, for comment (Exhibit F) 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. 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 28 May 21, 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-2022-00635 in Executive Session on 16 Feb 23:

Work-Product, Panel Chair
Work-Product, Panel Member
Work-Product, Panel Member

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

- Exhibit A: Application, DD Form 149, dated 22 Feb 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 25 Jul 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Aug 22.
- Exhibit E: Advisory Opinion, ARPC/DPTT, w/atchs, dated 25 Aug 22.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 31 Oct 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.

4/20/2023

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Board Operations Manager, AFBCMR

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