

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-00681

XXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

Correct her official military record to reflect her status as "retired" vice "discharged."

### APPLICANT'S CONTENTIONS

She completed 20 years of service, filed for retirement, and it is now her understanding the paperwork was filed incorrectly. She attempted to obtain a retiree identification card and was informed she had been separated from service, not retired.

It appears a clerical error was made in the personnel office. She clearly wished to be retired, had signed the form, and was told the commanding officer had signed the form. A third signature was required on the AF Form 131, *Application for Transfer to the Retired Reserve*, but was never obtained and the paperwork was submitted without that signature. It is unclear to her how this happened and how incomplete paperwork for retirement could somehow result in her status changing to a separation, but this is what she is being informed was the outcome. She fulfilled all requirements for retirement.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an honorably discharged Air National Guard master sergeant (E-7).

On 28 Apr 91, the applicant was furnished an honorable discharge and credited with 4 years, 10 months, 26 days active service.

On 30 Aug 91, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the Air National Guard.

On 8 Feb 07, according to AF Form 131, *Application for Transfer to the Retired Reserve*, the applicant requested transfer to the retired reserve effective 2 Aug 07.

On 31 Jul 07, according to Special Order XXXX, dated 9 Jul 07, the applicant was honorably separated from the Air National Guard, and transferred to the Air Force Reserve, assigned to HQ ARPC (Retired Reserve Section), effective 1 Aug 07. The applicant had applied for transfer to the Reserve Retired List and had received the Notification of Eligibility for Retired Pay at Age 60. Authority: AFI 36-3209, Chap 3, Section C, paragraph 3.12.6., and verified through MilPDS 5 Jul 07; Notification of Eligibility for Retired Pay at Age 60 and Audit of Retirement Points.

On 31 Jul 07, according to NGB Form 22, *National Guard Bureau Report of Separation and Record of Service*, the applicant was furnished an honorable discharge, with Authority and

Reason: AFI 36-3209, Ch 3, Sec C, para 3.12.6.; Retirement Voluntary; SPD – RBD [Sufficient Service for Retirement].

On 1 Feb 08, according to the Military Personnel Data System (MilPDS), the applicant was transferred to Headquarters, Air Reserve Personnel Center (HQ ARPC), Personnel Accounting Symbol (PAS) Code S73F24X.

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

## **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. The applicant did not meet the service requirements for 20 years satisfactory service to be eligible for a reserve retirement. Additionally, there is no evidence she received, or the Air Force issued, a Notification of Eligibility for Retired Pay at Age 60 letter.

A review of the applicant's Military Personnel Record shows the applicant did submit a signed AF Form 131 on 8 Feb 07, requesting transfer to the Retired Reserve on 2 Aug 07. Unfortunately, the applicant was not transferred to the Retired Reserve on the requested date because she had not reached 20 years satisfactory service in accordance with Air Force Instruction (AFI) 36-3203, *Service Retirements*, paragraph 3.1.2. "*Reserve Retirement Eligibility*. 10 USC § 12731, establishes that ANG or AFR members must have at least 20 years of creditable years to qualify for a reserve retirement. Members serving on AD who have completed 20 years of creditable years through a combination of AD and reserve service also qualify for a reserve retirement even though the member may not have enough total active military service to qualify for an AD retirement. Members on AD desiring a reserve retirement must resign (officers) or separate (enlisted) from the AC and request appointment to (officers) or entry into (enlisted) the ARC before a reserve retirement may be requested and approved. Members must apply for reserve retired pay if the members have attained the eligibility age at which the member is eligible for and qualifies for reserve retired pay and have performed at least 20 creditable years. A creditable year is defined as earning 50 points within an individual's established retention and retirement year per Air Force Manual (AFMAN) 36-2136, *Reserve Personnel Participation*, paragraph 2.3.2."

According to the applicant's point summary, her anniversary date changed on 29 Apr 91 due to a component transfer (from Regular Air Force component to Air Reserve Component). Per AFMAN 36-2136, Table 2.4, Rule 3, *Establishment of Retention/Retirement Year or Anniversary Year*, prior to 30 Sep 95, transferring from an active component to an active reserve status changes the Retention/Retirement (R/R) date to "the date member returns to an active Reserve status." This rule changed the applicant's anniversary date from 3 Jun to 29 Apr and effectively began a new R/R year in which the applicant needed to earn at least 50 retirement points to be awarded a satisfactory year of service. The applicant earned 48 retirement points from 29 Apr 91 through 28 Apr 92 and, by rule, was not awarded a satisfactory year of service.

The state of XXXXX improperly issued the applicant the special order stating she had been transferred to the Reserve retired list, effective 1 Aug 07, and had received the Notification of Eligibility for Retired Pay at Age 60 letter. As of 31 Jan 08, the applicant had 19 years, 10 months, 26 days satisfactory service. She was then transferred to HQ ARPC, PAS S73F24X, effective 1 Feb 08.

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 29 Aug 22 for comment (Exhibit D), and the applicant replied on 20 Sep 22. In her response, the applicant contended that what she had initiated as an attempt to correct a simple clerical error has blossomed into what she is discovering to be multiple years-long personnel errors. Each of the point summaries in her personnel records state it is possible that information may be inaccurate. She remembers reviewing those point summaries each year to make sure her time was documented correctly. However, she believes as a service person who earnestly gave 20 years of her life, she had a reasonable expectation that the personnel officers appointed to help her would have been reviewing her records correctly. Even in the review of her case, it states, "The State of XXXXX improperly issued the applicant Special Order XXXXX stating that she has been transferred to the Reserve retired list effective 1 Aug 07 and had received the Notification of Eligibility for Retired Pay at Age 60 letter." In addition to receiving that order, she was presented with a glass desk award congratulating her on her completion of 20 years' service, as well as a flag that had been flown over the capitol building in XXXXXX. She believes at that point she had a reasonable expectation that her records were in order, and she could expect that her retirement was secure.

This has blossomed into a potential loss of retirement income for her family. She is devastated and feels betrayed by her fellow Guard members. She was not a trained personnel specialist and not trained to read the points summaries. She had some understanding of a "good year" and had been told by two Guard personnel officers that she thought she could trust that she was amassing good years all along. The missed year was never brought to her attention.

She respectfully disagrees that there is no evidence of an error or injustice. In the advisory, the error is stated in plain language. This was not just one error, but several made over time, culminating in a large final error at the time of her retirement. In addition to the years of retirement funds she hoped for herself and her family, this also erases the title of "retiree" from her record, through no fault of her own. If someone had called this error to her attention, she might have remained for an additional year in the Guard.

The advisory provides two options should the Board choose to honor her request, and she hopes the Board will find a way to make one of them work within the system. She spent many years, both active and in the Guard, honorably serving this country. She is a DESERT STORM veteran and currently works for the Veterans Administration, continuing to serve her fellow veterans.

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 applicant's request to be transferred to the Retired Reserve was processed through the ANG and she was issued retirement orders and NGB Form 22 reflecting voluntary retirement. Additionally, there is no evidence the applicant was notified her transfer request was rejected due to a lack of satisfactory service, which would have given her the opportunity to correct the oversight. Therefore, the Board recommends correcting the applicant's records as indicated below.

## RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show:

- a. She was awarded 2 (two) non-paid inactive duty points for Retention/Retirement Year 29 April 1991 through 28 April 1992; resulting in 1 (one) satisfactory year of service for a total of 20 years, 10 months, 26 days of satisfactory service.
- b. She was not discharged from the Air Force Reserve on 31 July 2007, but on that date, she was assigned to the Retired Reserve Section, and her name was placed on the Retired Reserve List, effective 1 August 2007.

## 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-2022-00681 in Executive Session on 8 Nov 22:

, 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 1 Mar 22.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory opinion, ARPC/DPTT, w/atchs, dated 29 Jul 22.  
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 29 Aug 22.  
Exhibit E: Applicant's Response, dated 20 Sep 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.

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Board Operations Manager, AFBCMR