

RECORD OF PROCEEDINGS

IN THE MATTER OF:

XXXXXXXXXX

DOCKET NUMBER: BC-2022-01580

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

A waiver to the Time In Grade (TIG) requirement to retire as a lieutenant colonel (O-5).

APPLICANT'S CONTENTIONS

He was promoted above the zone to lieutenant colonel. At the time of his retirement, he was serving in Italy. After reaching retirement eligibility he extended in Italy for as long as the Air Force Personnel Center (AFPC) would allow. However, he still did not have three years TIG to retain the rank of lieutenant colonel into retirement. In order to achieve the three-year TIG requirement, he would have been forced to take a permanent change of station assignment and would have incurred a one-year Active Duty Service Commitment just to gain the extra six months he needed to retire as a lieutenant colonel. For the sake of his family, he elected to retire while in Italy, and was six months short of the TIG requirement for lieutenant colonel. Upon retirement his rank was reduced to major (O-4). His service was entirely honorable, and he faithfully lived up to the Air Force core values of integrity, service, and excellence. Granting this request would be no-cost to the Air Force. It will not change his retirement benefits but will allow him to retain the rank in retirement that he earned in good faith while on active duty.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force major.

On 1 Feb 16, according to Special Order **Work-Product**, the applicant was promoted to the permanent rank of lieutenant colonel.

On 3 Aug 17, the applicant submitted a retirement application and requested a waiver for the three-year TIG requirement. His commander coordinated on the request for retirement and indicated his support for the TIG waiver.

On 17 Jan 18, Secretary of the Air Force Personnel Counsel denied the applicant's TIG waiver request.

On 23 Jan 18, the applicant acknowledged through memorandum that his TIG waiver was denied, and he accepted retirement at the lower rank of major. He requested that AFPC Retirements continue to process his retirement request for 1 Aug 18.

On 1 Aug 18, according to Special Order **Work-Product**, dated 5 Feb 18, the applicant was retired in the rank of major and was credited with 20 years, 2 months and 4 days of service.

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. The applicant's date of rank for lieutenant colonel was 1 Feb 16. To retire in the rank of lieutenant colonel, the applicant had to have requested a retirement date of 1 Feb 19 or later. When the applicant applied for retirement, there was no force management guidance in effect. The applicant's mandatory date of separation was 31 May 26 and was eligible to remain on active duty to complete the required time in grade but applied for a voluntary retirement effective 1 Aug 18.

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 8 Jun 22 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not 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/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant did not meet the three-year time in grade requirement to retire in the rank of lieutenant colonel. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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-2022-01580 in Executive Session on 19 Jan 23:

, Panel Chair
, Panel Member
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 21 Apr 22.

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

Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 8 Jun 22.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 8 Jun 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