

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-01995

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

His Active Duty Service Commitment (ADSC) waiver be approved and his Date Estimated Return from Overseas (DEROS) curtailed from 7 Jun 24 to 31 May 23.

### APPLICANT'S CONTENTIONS

On 2 Jun 22, he made an initial request to retire on 1 Jun 23. His request was based on HARDSHIP with a secondary justification of BEST INTEREST OF THE AIR FORCE. In addition, he requested his DEROS to be changed to 31 May 23. However, on 11 Jul 22, he was advised that his request was denied due to not meeting either criterion. The reasons for the HARDSHIP request continue to show signs of deterioration and there are no other known solutions. His in-laws have significant medical issues that makes them both increasingly unable to safely accomplish their activities of daily living. There are no other family members within 1,100 miles of their residence. In addition, his fathers-in-law resides 45 minutes away from his medical providers and there are no healthcare transport services in his area. His mother-in-law has medical/mental health issues, when coupled with her medications, makes it unsafe for her to drive, although it is mandatory. It is unlikely that their situation will improve, and it is not possible for them to become his dependents in Misawa, Japan due to the lack of their necessary services.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an Air Force colonel (O-6).

On 20 Apr 22, the applicant submitted an Exception to Policy DEROS Curtailment and ADSC Waiver Request, with the concurrence of his Group and Wing Commanders, to curtail his DEROS from 7 Jun 24 to 31 May 23 and waive twelve (12) months of his ADSC. His request was submitted in conjunction with his request to retire effective 1 Jun 23, based on hardship and in the best interest of the Air Force.

On 30 Jun 22, action on behalf of the Secretary of the Air Force, by the Secretary of the Air Force Personnel Council (SAFPC), the applicant's request for retirement effective 1 Jun 23, citing hardship and consideration under the best interest of the Air Force provision, was disapproved.

On 15 Jul 22, the applicant requested reconsideration, with the concurrence of his Group and Wing Commanders, of the decision to deny his DEROS Curtailment and ADSC Waiver.

On 27 Jul 22, the applicant was advised in accordance with AFI 36-2303, *Service Retirements*, all determinations by SAFPC boards are final and he may appeal the SAFPC's decision to the Air Force Board for Correction of Military Records.

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

### **APPLICABLE AUTHORITY/GUIDANCE**

IAW AFI 36-3203. 3.8.2.1. *Waiver Requests Based on Hardship*. Applicants must explain, in writing, and provide detailed documentation to show the hardship, how retirement will ease or eliminate the hardship, and how the hardship condition arose or worsened after the service commitment or restriction occurred and what other efforts the member took to remedy the situation (e.g., request for humanitarian/join spouse assignment, enrollment in the Exceptional Family Member Program, daycare, in-home care), before requesting a waiver to retire. A hardship situation cannot be common to other military members in the course of a military career. The AF recognizes timing of civilian employment, business opportunities, plans for higher education or training, ownership of property, family separation, and other inconveniences as common situations and will not approve waiver requests for these reasons alone. If the hardship request is based on the medical condition of a family member, the documentation provided must describe the assistive care required, as well as the prognosis (e.g., whether the condition is temporary or permanent). (T-1).

AFI 36-3203 3.8.2.2. *Waiver Requests Based on Best Interest of the Air Force*. An application citing "best interest of the Air Force" as a basis for a waiver must clearly show how retirement would serve Air Force interests.

### **AIR FORCE EVALUATION**

AF/A1LO recommends denying the applicant's request for DEROS curtailment and the waiver associated with his ADSC of 7 Jun 24, in order to retire on 1 Jun 23. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant's circumstances did not substantiate that his situation was an extreme personal hardship uncommon to other Airmen and Guardians. Additionally, SAFPC denied the applicant's case under best interest of the Air Force provision, citing the need for flight nurses and lengthy active-duty service commitment as reason for denial. The manning for all nurses is at 90 percent and based on current projections, all colonel nurse positions in 2023 will be unable to be filled.

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 Nov 22 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 AF/A1LO and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the Board sympathizes with the applicant's situation, the Board found that his situation was not

unique compared with other service members whose parents are experiencing failing health. 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-2022-01995 in Executive Session on 10 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 4 Aug 22.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory Opinion, AF/A1LO, w/atchs, dated 29 Nov 22.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 29 Nov 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.

**X**

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Board Operations Manager, AFBCMR