

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02501

XXXXXX

COUNSEL: XX

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His 26 Jun 64 date of separation be changed to reflect his original scheduled discharge date in Sep 64.

APPLICANT'S CONTENTIONS

He has Parkinson's disease and was unaware Department of Veterans Affairs medical benefits would be affected by his discharge/separation date. He originally had a date of separation in Sept 64, but he was scheduled to returned from his assignment in Korea in Jun 64, so rather than be reassigned, he was honorably separated three months early. He has since learned the Veterans Affairs authorized medical benefits that start in Aug 64, but since he separated in Jun 64, he does not qualify for these benefits. Had he been reassigned for his remaining three months of service; he would qualify for these benefits.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman second class (E-3).

On 20 Sep 60, according to Special Orders Number XXXX, dated 21 Sep 60, the applicant enlisted in the Regular Air Force.

On 1 Jul 63, according to AF Form 7, *Airman Military Record*, the applicant departed for Korea and returned on 1 Jun 64.

On 26 Jun 64, according to DD Form 214, *Armed Forces of the United States Report of Transfer or Discharge*, the applicant was released from active duty pursuant to Air Force Regulation (AFR) 39-14, *Separation for Convenience of the Government*, paragraph 2, *Convenience of the Government*, with an honorable character of service. He was credited with 3 years, 9 months, and 17 days of active service including 11 months and 20 days of Foreign and/or Sea Service.

On 26 Jun 64, according to Special Order XXXX, dated 25 Jun 64, paragraph 8 listed the applicant as an overseas returnee who was relieved from active duty effective 26 Jun 64, and transferred to the Reserve of the Air Force.

On 26 Jun 64, according to Air Transport Wing memorandum, *Transfer to Reserve Component (IRS)*, dated 26 Jun 64, the applicant was transferred to the Air Force Reserve effective 27 Jun 64 and would remain assigned there until 19 Sep 66, unless sooner relieved.

On 19 Sep 66, according to Reserve Orders Number XXXXX, dated 6 Oct 66, the applicant was honorably discharged from the Air Force Reserve.

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

APPLICABLE AUTHORITY/GUIDANCE

AFR 39-14, dated 1 Mar 60, paragraph 2, *Authority to Order Separation in the Best Interests of the Air Force*. Notwithstanding the provisions of this or any other regulation, or of any proceedings, decision, or action under this or any other regulation, the Secretary of the Air Force may direct the separation of any Airman at the convenience of the Government prior to the expiration of his term of service, if the Secretary determines that such separation is in the best interest of the Air Force. Authority to make this decision is not delegated to field commanders. When the Secretary directs the discharge of an Airman under this paragraph, the Airman will be given an honorable discharge. This paragraph will be cited as authority for the airman's separation.

Vietnam Era is a term used by the United States Department of Veterans Affairs to classify veterans of the Vietnam War. Various departments of federal, state and local governments as well as private employers often give Vietnam Era veterans special consideration regarding employment and sometimes assign extra qualifying points.

For Veterans Affairs purposes, in accordance with the Code of Federal Regulations Section 3.2 (f), the Vietnam Era is the period beginning on 1 Nov 55 and ending on 7 May 75, inclusive, in the case of a veteran who served in the Republic of Vietnam during that period. The period beginning on 5 Aug 64 and ending on 7 May 75, inclusive, in all other cases.

AIR FORCE EVALUATION

AFPC/DPMSSR recommends denying the request. Based on review of the applicant's request and his master personnel record, there is no evidence of an error or injustice with his date of separation as he was discharged in accordance with AFR 39-14. His master personnel record includes Special Order XXXXX, which reflects in paragraph 8, the applicant's name stating he was an overseas returnee who was relieved from active duty effective 26 Jun 64. Further, AF Form 7, shows the applicant was separated on 26 Jun 64, and was placed in the Reserve component effective 27 Jun 64.

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 28 Oct 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 applicant's discharge was correctly processed pursuant to AFR 39-14; therefore, the Board concurs with the rationale and recommendation of AFPC/DPMSSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. It appears the applicant is requesting his date of separation be changed to reflect Sep 64, so he is designated as a Vietnam Era Veteran. The evidence indicates the applicant served in Korea from 1 Jul 63 to 1 Jun 64. However, for Veterans Affairs purposes, the Vietnam Era is the period beginning on 1 Nov 55 and ending on 7 May 75, is for veterans who served in the Republic of Vietnam during that period. However, there is no evidence the applicant served in the Republic of Vietnam. The period beginning on 5 Aug 64 and ending on 7 May 75, pertains to veterans in all other cases. The applicant does not meet the requirement to be designated as a Vietnam Era Veteran for the period 5 Aug 64 and ending on 7 May 75, because he served in Korea and his date of separation was prior to Aug 64. Therefore, the Board recommends against correcting the applicant's records.

Nonetheless, the Board thanks the applicant for his service and encourages him to contact the Department of Veterans Affairs to ascertain if he qualifies for benefits under the ¹PACT Act, which is a new law that expands health care and benefits for veterans exposed to burn pits, Agent Orange, and other toxic substances. More information can be found at: <https://www.va.gov/resources/the-pact-act-and-your-va-benefits/>.

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 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-2022-02501 in Executive Session on 4 May 23:

, Chair, AFBCMR
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, dated 30 Aug 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DPMSSM, dated 28 Oct 22.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 28 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.

¹ The full name of the law is "~~The Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act.~~"

X

Board Operations Manager, AFBCMR