

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02682

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

Correct his official military record to change his Personnel Accounting Symbol (PAS) Code from S73IF24X to S73IFLX9 to reflect Reserve Retired status.

APPLICANT'S CONTENTIONS

He was discharged from the Air Force Reserve on 4 Jun 12 and assigned a current PAS code of S73IF24X (Former Member). After his Individual Ready Reserve (IRR) status changed to discharged, he never received any information on how to apply for his retirement. He will be eligible for retired pay on his 60th birthday. This correction would allow him to access his retirement pay and benefits that are due to him after 28 years of service.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former member Air Force Reserve senior master sergeant (E-8).

On 5 Jun 10, according to DD Form 4, *Enlistment/Reenlistment Document Armed Forces of the United States*, the applicant reenlisted in the Air Force Reserve for a period of two years.

On 26 Oct 10, according to the applicant's Military Personnel Data System Service History, he was credited with 25 years satisfactory service following Retention/Retirement year 27 Oct 09 to 26 Oct 10.

On 5 May 11, according to Reserve Order XXXX, dated 21 Apr 11, the applicant was assigned to the Air Force Reserve Non-obligated Non-participating Ready Personnel Section.

On 4 Jun 12, according to Reserve Order XXXX, dated 12 Jun 12, the applicant was honorably discharged from the Air Force Reserve.

On 5 Jul 16, after the applicant's discharge, ARPC/DPTT sent the applicant the standard Notification of Eligibility for Reserve Retired Pay at Age 60 (20-year) letter informing him that he has completed the required years under the provisions of Title 10 United States Code, Section 12731 (10 U.S.C. § 12731) and is entitled to retired pay upon application prior to age 60.

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

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 because the applicant did not apply to be transferred to the Retired Reserve prior to being discharged. A review of the applicant's Military Personnel Record shows he received the Notification of Eligibility for Reserve Retired Pay at Age 60 letter. He re-enlisted into the Air Force Reserve on 5 Jun 10 and was transferred to the Non-obligated Non-participating Ready Personnel Section (NNRPS) on 5 May 11. The applicant was discharged from NNRPS on 4 Jun 12.

In accordance with AFI 36-3203, *Service Retirements*, paragraph 8.6., reserve component members use AF IMT 131, *Application for Transfer to the Retired Reserve*, to apply to transfer to the Retired Reserve. The applicant is eligible for a former member identification card at this time and is still eligible to apply for Reserve retired pay at age 60, or earlier if approved.

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 14 Nov 22, for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.
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 prior to his discharge. 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 he was not discharged from the Air Force Reserve on 4 Jun 12, 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-2022-02682 in Executive Session on 4 May 23:

, Chair, AFBCMR
, 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 3 Oct 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 9 Nov 22.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 14 Nov 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.

X

Board Operations Manager, AFBCMR