

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02745

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Correct his official military record to reflect Reserve Retired status.

APPLICANT'S CONTENTIONS

With this correction, he can receive the retirement he justly earned serving more than 26 honorable years in the Air Force and Air Force Reserve. He did not realize he could retire at age 60 and thought the program was like Social Security pension and he could start receiving retirement at 63. He never worried about his retirement until he checked on the status and found he was discharged in 2013 and not placed in the Retired Reserve. He should have been because he is eligible with more than 26 good years served in the Air Force Reserve according to the myPers Total Force Service Center staff that looked into his situation.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former member Air Force Reserve technical sergeant (E-6).

On 16 Apr 07, ARPC/DPTT sent the applicant the standard Notification of Eligibility for 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.

On 12 Jan 13, according to the applicant's Military Personnel Data System Service History, he was credited with 26 years satisfactory service following Retention/Retirement year 12 Jan 12 to 12 Jan 13.

On 5 Jul 13, according to ARPC/DPTT, the applicant was 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

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. HQ ARPC Retirement Eligibility Section reviewed the applicant's Military Personnel Record and found he received the Notification of Eligibility for Reserve Retired Pay at Age 60 letter. The applicant was discharged from the Air Force Reserve on 5 Jul 13.

In accordance with AFI 36-3203, *Service Retirements*, paragraph 8.6., reserve component members use the 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 22 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 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.

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 5 Jul 13, 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-2022-02745 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 14 Oct 22.

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

Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 14 Nov 22.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 22 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