

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-03103

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Correct his official military record to reflect Reserve Retired status.

APPLICANT'S CONTENTIONS

In Nov 21, he received his official Air Force retirement letter stating he was eligible for Reserve retirement. He followed the instructions via the Air Force retirement page, selected his options for retirement benefits, and submitted it. He assumed his retirement was good to go until he applied for TRICARE Retirement Reserve and learned he is not listed as retired, only separated. After contacting his Defense Enrollment Eligibility Reporting System representative, he learned his application was for separation, not retirement, which did not make sense as he entered information specific to retirement.

He served his time active duty and retired. He received his letter stating he is eligible and entered the requested information for retirement. He is requesting his official retirement orders so he can receive his retirement identification card and enroll in TRICARE Retired Reserve.

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 17 Feb 22, ARPC/DPTT sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing him that he had 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 1 Aug 22, according to myPers Discussion Thread, provided by the applicant, he contacted the myPers Total Force Service Center regarding his notification of eligibility for retired pay and guidance on retirement preparation actions.

On 6 Aug 22, according to Reserve Order XXXX, dated 21 Sep 22, 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 he did not apply to be transferred to the Retired Reserve through the Virtual Personnel Center (vPC) prior to being discharged. Per Air Force Instruction (AFI) 36-3203, *Service Retirements*, paragraph 9.4.10. Transfer to the retired reserve is not automatic. The following members must apply online through vPC unless ineligible per paragraph 9.6.4 (Atch 3). 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 at an approved reduced retirement pay age date, if applicable).

On 16 Nov 21, the applicant attempted to apply for retirement through the Regular Retirement application on vMPF. On that same day, he received an email saying that he was not eligible with a statement that said, "You must apply for retirement through the Air Reserve Personnel Center." The applicant never attempted to apply again and was discharged from the Air Force Reserve on 6 Aug 22.

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 21 Feb 23 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. 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 6 August 2022, 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 Title 10, United States Code, Section 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-03103 in Executive Session on 30 May 23:

, Panel Chair
, Panel Member
, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atch, dated 28 Nov 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 16 Feb 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Feb 23.

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

Associate Director, AFBCMR