

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-03176

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Correct his DD Form 214, *Report of Separation from Active Duty*, to move the 4 months and 18 days credited to Block 18(d), *Prior Inactive Service*, to Block 18(b), *Prior Active Service*.

APPLICANT'S CONTENTIONS

He was on Special Orders – Extended Active Duty with pay from 17 Oct 72 – 4 Mar 73. His enlistment contract, dated 5 Mar 73, Block 19 ¹[sic] lists his 4 months and 18 days as “Prior Service.” The [State] Department of Military and Veterans Affairs (DMVA) denied him “Vietnam Era Veteran Bonus” for his service from 17 Oct 72 – 4 Mar 73. He is trying to correct this error with the [State] DMVA.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force sergeant (E-4).

On 17 Oct 72, according to DD Form 4, *Enlistment Contract – Armed Forces of the United States*, the applicant entered the Air Force Reserve.

On 17 Oct 72, Special Orders Number XXX, was published, which assigned the applicant to the Air Reserve Personnel Center (ARPC) Obligated Reserve Service Delayed Entry/Enlistment Program. The applicant would be ordered to extended active duty (voluntary) with effective date of duty of 10 Apr 73.

On 4 Mar 73, according to DD Form 4, the applicant was honorably discharged from the Air Force Reserve.

On 5 Mar 73, according to DD Form 4, the applicant entered the Regular Air Force.

On 20 Feb 77, the applicant was furnished an honorable discharge and credited with 3 years, 11 months, and 16 days active service and 4 months and 18 days prior inactive service.

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

AIR FORCE EVALUATION

AFPC/DP2MLT (Service Dates) recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an

¹ Block 19 indicates “NA.”

error or injustice, as the order provided by the applicant does not order him to active duty prior to his Air Force enlistment date of 5 Mar 73.

The applicant enlisted in the Air Force Reserve Obligated Reserve Service Delayed Entry/Enlistment Program on 17 Oct 72. He was discharged from the Delayed Entry/Enlistment Program on 4 Mar 73 and enlisted in the Regular Air Force on 5 Mar 73. According to his DD Form 4, dated 5 Mar 73, the period 17 Oct 72 – 4 Mar 73 was served in the Air Force Reserve. Additionally, the Special Order - Extended Active Duty, provided by the applicant states the individuals listed were relieved from Air Force Reserve Obligated Reserve Service Delayed Entry/Enlistment Program and assigned to Lackland Air Force Base for basic training. The effective date of duty is reflected as 10 Apr 73. Based on the Regular Air Force enlistment contract, he was enlisted prior to the effective duty date. There was no amended or new special order found in his master personnel record.

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 Mar 23 for comment (Exhibit D), and the applicant replied on 11 Apr 23. In his response, the applicant reiterated his request for correction of his service dates on his DD Form 214. Additionally, he requested his DD Form 149, *Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552*, be amended to reflect "YES (Via Video/Telephone)" in Block 17. *Do You Wish to Appear at Your Own Expense Before the Board in Washington D.C.?*

The applicant provided history regarding his Air Force enlistment. He registered for selective service in Jun 71. On 2 Feb 72, the draft lottery for his birth year was held and his number was 32. Men with lottery numbers below 95 were going to be drafted. He received his letter from the Selective Service Board in Jun 72, with a report date of 16 Oct 72. On 7 Oct 72, he contacted an Air Force Recruiter and was told he would be enlisted in the Air Force when he reported. On 17 Oct 72, he enlisted in the Air Force for six years and his military obligation started on that date. He was told to return home and he would receive federal service pay from the Air Force until 4 Mar 73. On 5 Mar 73, he started active duty. His military obligation started on 17 Oct 72 until his discharge on 20 Feb 77 without a break in pay.

When he received his DD Form 214, he did not understand why his 17 Oct 72 – 4 Mar 73 service was listed as Prior Inactive Service. This affected him when he applied twice for the [State] Vietnam Veteran Era Bonus in the 1970s. He was denied the bonus both times. He requested his records from the National Personnel Records Center (NPRC) but could not find a reason why his service was listed as Prior Inactive Service. After he retired, he started researching his military records and discovered missing service medals he did not receive while active duty and medical benefits entitlements. He never received the Special Orders – Extended Active Duty in his past requests from the NPRC. It was not until Nov 21 that an American Legion Veteran Service Officer found in his records that he was on Special Orders – Extended Active Duty for the period 17 Oct 72 – 4 Mar 73, which is why he was paid from the Air Force. However, his DD Form 4, dated 17 Oct 72, had him report to active duty on 5 Mar 73. He went from Extended Active Duty to active duty without a break in pay.

His previous military records requests, letters from [State] DMVA, and DD Form 214 never referenced his Special Orders - Extended Active Duty. In his own records, his Report on Individual Personnel, dated 4 Sep 75, reflects his Pay Date as 17 Oct 72 and his Extended Active Duty Date as 5 Mar 73, the same date he enlisted into active duty. These dates did not make sense to him.

On 16 Mar 23, he received a letter from the Air Force stating his request to correct his DD Form 214 was denied as he enlisted in the Air Force Reserve ORS Delayed Entry/Enlistment Program on 17 Oct 72. He did not enlist under the DEP. This is an unpaid program. He had to be assigned to ARPC with the Special Orders – Extended Active Duty before assignment to Lackland Air Force Base.

This has been a long and complicated process. He served under four presidents, and when called to serve in the military armed forces, did not hesitate to serve his nation. When he applied for the [State] Vietnam Veteran Era Bonus, the federal government was handing out amnesties and unconditional pardons to draft dodgers. When he was declined the bonus, it made him feel like a draft dodger and that his military service did not count for anything. This is very important to him and his last chance to correct this injustice that was done to him over 50 years ago.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was not 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 AFPC/DP2MLT and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant was enlisted in the Air Force Reserve Delayed Entry/Enlistment Program during the period 17 Oct 72 – 4 Mar 73, which is credited as prior inactive service. The special order provided by the applicant directing extended active duty was not effective until 10 Apr 73, after the applicant had already enlisted on active duty in the Regular Air Force. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.
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 Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-03176 in Executive Session on 6 Jul 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, w/atchs, dated 9 Dec 22.

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

Exhibit C: Advisory Opinion, AFPC/DP2MLT, dated 16 Mar 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Mar 23.

Exhibit E: Applicant's Response, w/atchs, dated 11 Apr 23.

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