

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-03291

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Correct his official military personnel record to reflect his rank as master sergeant (E-7) vice technical sergeant (E-6).

APPLICANT'S CONTENTIONS

He retired as a master sergeant (E-7). All other documents such as his identification card, MyPay, his retirement orders, and certificates all reflect master sergeant (E-7).

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force master sergeant (E-7).

On 18 Aug 11, according to *Officer Grade History*, the applicant's Projected Grade Data reflected a projected permanent grade of 37 [E-7/master sergeant] for Fiscal Year 2011, with Sequence Number: XXXX.

On 30 Nov 11, according to Special Order No. XXXX, dated 25 Aug 11, the applicant was relieved from active duty, organization, and station of assignment. Effective 1 Dec 11, he was permanently disability retired in the grade of master sergeant (E-7) per AFI 36-3212 and 10 USC 1372 with compensable percentage for physical disability of 40 percent.

On 30 Nov 11, the applicant was furnished an honorable discharge, in the grade of technical sergeant (E-6), with Narrative Reason for Separation: Retirement Disability, Permanent, and credited with 18 years, 2 months, 11 days active service.

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

APPLICABLE AUTHORITY

10 U.S. Code § 1372 - Grade on retirement for physical disability: members of armed forces

Unless entitled to a higher retired grade under some other provision of law, any member of an armed force who is retired for physical disability under section 1201 or 1204 of this title, or whose name is placed on the temporary disability retired list under section 1202 or 1205 of this title, is entitled to the grade equivalent to the highest of the following:

(1) The grade or rank in which he is serving on the date when his name is placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is retired.

(2) The highest temporary grade or rank in which he served satisfactorily, as determined by the Secretary of the armed force from which he is retired.

(3) The permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired and which was found to exist as a result of a physical examination.

(4) The temporary grade to which he would have been promoted had it not been for the physical disability for which he is retired, if eligibility for that promotion was required to be based on cumulative years of service or years of service in grade and the disability was discovered as a result of a physical examination.

AIR FORCE EVALUATION

AFPC/DPFDD recommends denying the application. There is no indication that an error or injustice occurred.

Under 10 U.S. Code § 1372, a member is entitled to be retired in the grade to which they would have been promoted had it not been for the physical disability for which they were retired. The applicant's Grade History, dated 18 Aug 11, produced at the time of disability processing, indicates the applicant was selected for promotion under the Fiscal Year 2011 E-7 promotion cycle, with a line number of XXXX (sic). Special Order No. XXXX, dated 25 Aug 11, was correctly issued stating his rank was technical sergeant (E-6) at the time of release from active duty on 30 Nov 11, and that he was permanently disability retired in the grade of master sergeant (E-7), effective 1 Dec 11, due to having a projected promotion. Air Force Personnel Center Enlisted Promotions confirmed his line number did not increment prior to his date of separation.

Although the applicant was disability retired as a master sergeant, his official personnel and pay records would not reflect this grade because his line number did not increment, and he did not pin-on prior to his date of separation. His retirement order and DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflect technical sergeant (E-6) because that was the grade he held on his date of separation [30 Nov 11]. His retiree identification card reflects master sergeant because that was the grade at which he was retired [1 Dec 11].

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 15 Mar 23 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board 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 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 it in the interest of justice to waive the three-year filing requirement.

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/DPFDD and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant did not attain the grade of master sergeant (E-7) until his date of retirement, 1 Dec 11, in

accordance with 10 U.S. Code § 1372. Therefore, the Board recommends against correcting the applicant's records.

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 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-2022-03291 in Executive Session on 12 Sep 23:

, Panel Chair
, 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 13 Dec 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DPFDD, dated 14 Mar 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 15 Mar 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