

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00025

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

His military record be corrected to reflect the following:

1. Add 1 year, 10 months, and 2 days active-duty service credit toward retirement.
2. Retroactively credit his active duty pay to account for three years and four days service.

APPLICANT'S CONTENTIONS

The correction of the 1 year, 10 months, 2 days added to his active-duty service and his retirement should be made because it increases his time in service, resulting in higher retirement compensation. Additionally, he is missing another three years and four days service which was added to his DD Form 214, *Certificate of Release or Discharge from Active Duty*, at his retirement which could have affected active duty pay had the time in service correction been made sooner.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force lieutenant colonel (O-5).

On 30 Jun 95, the applicant was furnished an honorable discharge following attendance at the United States Air Force Academy (USAFA) Preparatory School, in the grade of airman first class (E-3) and credited with 11 months and 5 days active duty service.

On 28 Jul 97, according to DD Form 214, provided by the applicant, he was furnished an honorable discharge following attendance at USAFA in cadet status, and credited with two years and three days active duty service, not creditable for any purpose in commissioned officer status.

On 13 Jan 98, according to DD Form 4, *Enlistment/Reenlistment Document Armed Forces of the United States*, and AF Form 1056, *Air Force Reserve Officer Training Corps (AFROTC) Contract*, the applicant enlisted in the Air Force Reserve for the purpose of participating in AFROTC.

On 16 Aug 99, according to Reserve Order XXXX, the applicant was appointed as a Reserve of the Air Force in the grade of second lieutenant (O-1).

On 30 Jul 99, according to AF Form 766, *Extended Active Duty Order* (Special Order XXXXX, dated 22 Apr 99) the applicant was ordered to active duty.

On 30 Aug 99, according to AF Form 973, *Request and Authorization for Change of Administrative Orders* (Special Order XXXXX, dated 8 Jul 99, amending Special Order XXXXX) the applicant was ordered to active duty.

On 31 Dec 21, the applicant was furnished an honorable discharge, with Narrative Reason for Separation of "Sufficient Service for Retirement" and credited with 23 years, 3 months, 6 days active service.

On 23 Mar 23, according to DD Form 215, *Correction to DD Form 214, Certificate of Release or Discharge from Active Duty*, the DD Form 214 ending 30 Jun 95, Block 12b, *Separation Date This Period*, was corrected to reflect "1995 Jun 29."

On 23 Mar 23, according to DD Form 215, the DD Form 214 ending 28 Jul 97, Block 12a, *Date Entered AD This Period*, was corrected to reflect "1995 Jun 30."

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

APPLICABLE AUTHORITY/GUIDANCE

Title 10, United States Code, Section 971 (10 USC § 971) - *Service credit: officers may not count service performed while serving as cadet or midshipman*

(a) *Prohibition on Counting Enlisted Service Performed While at Service Academy or in Navy Reserve.* The period of service under an enlistment or period of obligated service while also performing service as a cadet or midshipman or serving as a midshipman in the Navy Reserve may not be counted in computing, for any purpose, the length of service of an officer of an armed force or an officer in the Commissioned Corps of the Public Health Service.

(b) *Prohibition on Counting Service as a Cadet or Midshipman.* In computing length of service for any purpose, service as a cadet or midshipman may not be credited to any of the following officers:

- (1) An officer of the Navy or Marine Corps.
- (2) A commissioned officer of the Army, Air Force, or Space Force.
- (3) An officer of the Coast Guard.
- (4) An officer in the Commissioned Corps of the Public Health Service.

(c) *Service as a Cadet or Midshipman Defined.* In this section, the term "service as a cadet or midshipman" means:

- (1) Service as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or
- (2) Service as a midshipman at the United States Naval Academy.

10 USC § 2106 - *Advanced training; commission on completion*

(a) Upon satisfactorily completing the academic and military requirements of the program of advanced training, a member of the program who was selected for advanced training under section 2104 of this title may be appointed as a regular or reserve officer in the appropriate armed force in the grade of second lieutenant or ensign, even though he is under 21 years of age.

(b) The date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets or midshipmen from the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy, as the case may be, in that year. The Secretary of the military department concerned shall establish the date of rank of all other officers appointed under this section.

(c) In computing length of service for any purpose, an officer appointed under this section may not be credited with enlisted service for the period covered by his advanced training, other than any period of enlisted service performed on or after August 1, 1979, as a member of the Selected Reserve.

AIR FORCE EVALUATION

AFPC/DP2MLT recommends denying the application. Based on the documentation in the applicant's master personnel record and analysis of the facts, there is no evidence of an error or injustice. The applicant's dates included all creditable service.

The applicant enlisted in the Air Force to attend USAFA Preparatory School from 26 Jul 94 – 29 Jun 95; period of 11 months and 4 days. He entered USAFA cadet status from 30 Jun 95 – 28 Jul 97; period of 2 years and 29 days. He then enlisted in the AFROTC from 13 Jan 98 – 15 Aug 99; period of one year, seven months and three days. He was commissioned as a Reserve officer on 16 Aug 99 and entered extended active duty on 30 Aug 99. His pay date and total active federal military service date (TAFMSD) were adjusted to include the enlisted service at USAFA Preparatory School, which was creditable service for pay and active duty.

In accordance with 10 USC § 971, his 2 years and 29 days as a USAFA cadet is not creditable in computing length of service for any purpose as a commissioned officer in the Air Force. Additionally, in accordance with 10 USC 2106, the one year, seven months, and three days in AFROTC is not creditable for officers appointed under this title. Consequently, the total time of three years, eight months, and two days as a USAFA and AFROTC cadet are not creditable for pay or active duty service. After discharge from USAFA cadet status, the period between 29 Jul 97 and 12 Jan 98 was in a non-military status and is not creditable toward inactive service.

While time in cadet status is not creditable for pay or active duty, it is annotated as Total Prior Inactive Service on the DD Form 214. The applicant's final DD Form 214, Block 12e, *Total Prior Inactive Service*, should include his cadet service as well as his Reserve officer time from 16 Aug 99 – 29 Aug 99; period of 14 days, with a combined total inactive service of 3 years, 8 months, and 16 days. His final DD Form 214, Block 12e erroneously reflects 4 years, 1 month, and 29 days and will be administratively corrected. Finally, the USAFA Preparatory School corrected the applicant's DD Form 214 to reflect a discharge date of 29 Jun 95 vice 30 Jun 95, his final DD Form 214, Block 12d, *Total Prior Active Service*, will also be administratively corrected to reflect 11 months and 4 days vice 11 months and 5 days.

The complete advisory opinion is at Exhibit C.

AFPC/DPMSSR recommends denying the applicant's request to adjust his service credit toward retirement. Based on the information provided by AFPC/DPM2LT, Service Dates office, the service time the applicant is requesting to be added toward his active duty service is not creditable.

He attended USAFA Preparatory School from 26 Jul 94 – 29 Jun 95 and USAF from 30 Jun 95 – 28 Jul 97. He then enlisted in AFROTC from 13 Jan 98 – 15 Aug 99, was commissioned as a Reserve officer on 16 Aug 99, and entered extended active duty on 30 Aug 99.

His pay date and TAFMSD were adjusted to include his enlisted service at the USAFA Preparatory School, which was creditable service for pay and active duty. The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 2 Jun 23 for comment (Exhibit E) but has received no response.

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 recommendations of AFPC/DP2MLT and AFPC/DPMSSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. The service time the applicant is requesting is not creditable under 10 USC 971 and 10 USC 2106. All service creditable toward pay and active duty was included and his pay date and TAFMD adjusted accordingly. 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 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. 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 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-2023-00025 in Executive Session on 25 Aug 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 20 Aug 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2MLT, w/atchs, dated 24 Mar 23.
- Exhibit D: Advisory Opinion, AFPC/DPMSSR, dated 24 Mar 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Jun 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.

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Board Operations Manager, AFBCMR