

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00253

XXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His official military personnel record be corrected to reflect the grade of staff sergeant (E-5).

APPLICANT'S CONTENTIONS

His grade of staff sergeant (E-5) was approved by Secretary of the Air Force memorandum, dated 8 Jun 22.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force staff sergeant (E-5).

According to an Office of the Assistant Secretary memorandum, dated 8 Jun 22, *Action on Behalf of the Secretary of the Air Force*, provided by the applicant, he was determined to have served satisfactorily in the higher grade of staff sergeant within the meaning of Section 1372, Title 10, United States Code.

On 24 Aug 22, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was furnished an honorable discharge, in the grade of senior airman (E-4), with Narrative Reason for Separation of "Disability, Temporary IDES," and credited with 10 years, 5 months, 12 days active service.

On 25 Aug 22, according to Special Order Number XXXXX, dated 9 Jun 22, the applicant was placed on the Temporary Disability Retired List, in the grade of staff sergeant, with compensable percentage for physical disability of 80 percent.

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

APPLICABLE AUTHORITY/GUIDANCE

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 an error or injustice occurred.

Under 10 USC 1372, a member may be disability retired in the highest temporary grade or rank in which they served satisfactorily, as determined by the Secretary of the armed force from which they retired. The Personnel Data printout, dated 17 Feb 22, indicates, at the time of disability processing, the applicant had a current rank of senior airman (E-4), with a date of rank of 24 Jun 19, due to a previous demotion. This required a Secretary of the Air Force Personnel Council (SAFPC) grade determination to comply with the requirements of 10 USC 1372 and Air Force Instruction (AFI) 36-3212, *Physical Evaluation for Retention, Retirement and Separation*, paragraph 5.12.3. The document provided by the applicant confirms SAFPC determined he served satisfactorily in the higher grade of staff sergeant within the meaning of 10 USC 1372. On 9 Jun 22, Special Order XXXXX was correctly issued stating the applicant's rank was senior airman (E-4) at the time of release from active duty on 24 Aug 22, and that he was placed on the Temporary Disability Retired List in the grade of staff sergeant (E-5), effective 25 Aug 22.

Although he was disability retired as a staff sergeant, his official personnel and pay records would not reflect this grade because the grade determination affected his retirement grade only and had no effect on his grade at separation. His retirement order and DD Form 214 reflect senior airman (E-4) because that was the grade he held on his date of separation. His retiree identification card lists his grade as staff sergeant as that is the grade at which he was retired.

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 14 Mar 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 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. Pursuant to 10 USC 1372, it was determined the applicant served satisfactorily as a staff sergeant (E-5) only for the purpose of establishing his retired grade. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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-2023-00253 in Executive Session on 30 Nov 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/atch, dated 27 Dec 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DPFDD, atchs, dated 14 Mar 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 14 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