

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00642

XXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Correct his official military record to reflect Reserve Retired status.

APPLICANT'S CONTENTIONS

It was brought to his attention that he is showing as coded incorrectly which affects the benefits that he is to receive. Currently, he is coded with "PFF;" however, he should be coded as "YB."

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former member Air Force Reserve major (O-4).

On 11 Jul 07, according to the applicant's Military Personnel Data System Service History, he was credited with 20 years satisfactory service following Retention/Retirement year 12 Jul 07 to 11 Jul 07.

On 2 Oct 07, ARPC/DPPR sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing him that he has 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 6 Mar 08, according to Special Order XXXX, dated 7 Mar 08, the applicant was honorably discharged from the [State] Air National Guard and subsequently assigned to HQ ARPC Inactive Ready Reserves, effective 7 Mar 08.

On 6 Mar 08, the applicant was furnished an honorable discharge, with Authority and Reason: AFI 36-3209, Paragraph 2.49.1.7. Resignation/Miscellaneous Reasons/No Military Service Obligation, and SPD: MND [Miscellaneous Reasons], and credited with 23 years, 7 months, 25 days total service for retired pay.

7 Mar 10, according to Reserve Order XXXX, dated 9 Mar 10, the applicant was reassigned from the Inactive Ready Reserve to the Inactive Status List Reserve Section (ISLRS).

On 20 Aug 12, according to ARPC letter to the applicant, Subject: Review of Inactive Status List Reserve Section, he was assigned to the ISLRS for two and a half years and his status was reviewed. He would be screened for retention, retirement, or administrative discharge in approximately six months.

On 19 Ap 13, according to ARPC/DPTTS letter to the applicant, Subject: Notice of Proposed Action – Elimination from ISLRS, his ISLRS status was reviewed and his was considered for discharge. He was provided an ARPC Form 88, *Election of Options*, with instructions for

disposition. He was also briefed on his options to request retirement, resignation, or discharge, and notified lack of response within 30 days would result in discharge.

On 1 Oct 14, according to ARPC/DPTT advisory, dated 11 Aug 23, the applicant was discharged from the Air Force Reserve.

On 5 Dec 22, after his discharge, ARPC/DPTT again sent the applicant the standard Notification of Eligibility for retired pay (20-year letter), provided by the applicant, informing him that he has completed the required years under the provisions of 10 U.S.C. § 12731 and is entitled to retired pay upon application prior to age 60.

On 5 Dec 22, ARPC/DPTT sent the applicant a letter, provided by the applicant, that notified him he was eligible to draw retired pay on his 60th birthday.

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 (AFI) 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 (Transition Division) 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 the applicant did not apply for a Reserve retirement prior to being discharged. HQ ARPC Retirement Eligibility Section reviewed the applicant's Military Personnel Record and found the applicant received the Notification of Eligibility for Reserve Retired Pay at age 60 letter. On 19 Apr 13, the applicant was notified of proposed action – elimination from ISLRS, and that he would be discharged and classified as a “former member” if he did not complete and return the attached ARPC Form 88. Per AFI 36-3203, *Service Retirements*, paragraph 8.6, Reserve component members use AF IMT 131, to apply for transfer to the Retired Reserve. He was discharged on 1 Oct 14.

The applicant applied for retired pay at age 60; however, withdrew the request due to his interest in applying to the Air Force Board for Correction to Military Records. 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 earlier if approved.

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 Aug 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. While his military personnel record contains a letter sent to him by ARPC notifying him of his pending elimination from ISLRS, his options for resignation, retirement, or discharge, and the effects of his election on his benefits, there is no evidence of the applicant's receipt of this letter. 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 1 Oct 14, 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-2023-00642 in Executive Session on 16 Nov 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/atchs, dated 25 Nov 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 11 Aug 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Aug 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

Board Operations Manager, AFBCMR