

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-00734

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

Correct his official military record to reflect he is a Retiree Reserve vice Former Member.

### APPLICANT'S CONTENTIONS

He achieved the required retirement points needed to retire on 3 Mar 09, but due to the deactivation of the Reserve Medical Squadron, he did not receive any separation briefings explaining the process to apply for "retired – awaiting pay" status, and subsequent request for retirement. He repeatedly attempted to contact the Personnel Center but never received clear guidance.

In his current status, he is eligible for retirement pay, but not Cost of Living Allowance, TRICARE, base access, or Space Available travel. He is requesting full Reserve Retired status that he earned but did not apply for due to lack of knowledge. He is submitting this application on the recommendation of the Total Force Service Center as there is no other recourse at this time.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force Reserve technical sergeant (E-6).

On 18 Apr 08, according to the applicant's Military Personnel Data System Service History, he was credited with 21 years satisfactory service following Retention/Retirement year 19 Apr 07 to 18 Apr 08

On 3 Mar 09, according to Reserve Order XXXXX, dated 5 Mar 09, the applicant was discharged from the Air Force Reserve.

On 24 Jul 19, according to Reserve Order Number XXXXX, dated 15 Feb 23, the applicant was authorized retired pay and placed on the USAF Retired List.

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 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 (Transitions) 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 to be transferred to the Retired Reserve prior to being discharged. A review of the applicant's military personnel record shows he was issued an Expiration of Term of Enlistment letter, dated 21 Jul 08, informing him to apply for transfer to the Retired Reserve. Per AFI 36-3203, *Service Retirements*, paragraph 8.6., Reserve component members use AF IMT 131, *Application for Transfer to the Retired Reserve*, to apply for transfer to the Retired Reserve. He was discharged from the Non-Obligated Non-Participating Ready Personnel Section on 3 Mar 09, and applied for retired pay at age 60, which had been completed and the documentation forwarded to Defense Finance and Accounting Service, Cleveland.

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 19 Apr 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. ARPC/DPTT states the applicant received a letter informing him to apply for transfer to the Retired Reserve. However, the Board finds the letter is an insufficient replacement for the formal counseling required in accordance with AFI 36-3209. Therefore, 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. 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 3 Mar 09, 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 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-2023-00734 in Executive Session on 17 Aug 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/atch, dated 3 Mar 23.

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

Exhibit C: Advisory Opinion, ARPC/DPTT, w/atchs, dated 17 Apr 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 19 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.

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Board Operations Manager, AFBCMR