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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01426

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His record be corrected to show the public service he completed (as a police officer) after he retired from the Air Force under the Temporary Early Retirement Authority (TERA).
2. His record be updated by the Defense Finance Accounting Service (DFAS) to reflect his correct retirement pay record.

APPLICANT'S CONTENTIONS

He registered under TERA before his active duty retirement, and submitted all appropriate documentation to his local military personnel flight and the Department of Veterans Affairs (DVA) within one year of when he would have completed 20-years of active service based on his public service start date. However, his records do not show this update, which would increase his retirement benefits.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 1 Feb 94, the applicant signed a statement of understanding on his AF Form 1160, *Military Retirement Actions*, acknowledging he must register on the Public and Community Service (PACS) registry at the base family support center, and his retirement could not be consummated until his registration had been confirmed.

On 1 Jan 95, the applicant completed and signed his Defense Outplacement Referral Systems (DORS) Individual Application, which showed "DORS/PACS" annotated under "Registry Selection" on page 1 of the application. Additionally, on page 3, a statement highlighting the principal purpose of the DORS/PACS registry indicated participants would have their employment skills included in a database designed to link prospective employers with DORS/PACS applicants.

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On 31 Mar 95, according to Special Order [Work-Product], dated 28 May 94, the applicant was relieved from active duty, retired effective 1 Apr 95, and assigned to the retired reserve in the grade of E-7 until 16 May 09.

On 1 Apr 23, the applicant provided his DD Form 214, *Certificate of Release or Discharge From Active Duty*, showing he voluntarily retired under TERA after serving 15 years, 7 months, and 17 days of active duty. The remarks section reflects "Mbr is retiring as provided by Section 4403 of the National Defense Authorization Act (PL 102-484) and may qualify for re-computation of retired pay at age 62 pursuant to Section 4464 of the same law."

On 1 Apr 23, the applicant also provided a memorandum from the B----- city administrator certifying his employment with the city police department from 20 Jul 98 to 18 Apr 04.

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

AIR FORCE EVALUATION

AFPC/DPMSSR recommends denying the request. In the Fiscal Year 1993 National Defense Authorization Act (FY 93 NDAA), Public Law (PL) 102-484, 23 Oct 92, Congress enacted TERA, which permitted early retirement for selected military members having more than 15 but less than 20 years of active service. The NDAA required members retiring under TERA to register in advance of the projected retirement date on the PACS registry maintained under 10 U.S.C. Section 1143a. The law allows no provision to retroactively register for employment in public or community service organizations. Applicants were required to turn in proof of public or community service to the Defense Manpower Data Collection (DMDC) team no later than one year after they would have attained 20 years Total Active Federal Military Service had they been continuously on active duty. This date is referred to as the individual's Enhanced Retirement Qualification Period.

The applicant retired 1 Apr 95 with 15 years, 7 months and 7 days of active service. Based on the reporting instructions established by the DMDC, the applicant was required to submit record of the creditable service within a year of that point. However, the DMDC does not have any record the applicant applied for PACS. Had the applicant properly registered within the allotted time and provided the required documentation, he would have been eligible to receive credit for the time served under the PACS program.

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 5 Mar 24 for comment (Exhibit D), but has received no response.

The applicant's complete response is at Exhibit E.

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 recommendation of AFPC/DPMSSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, there was insufficient documentation of the applicant's PACS registration in his official military record or submitted evidence. Therefore, the Board recommends against correcting the applicant's records. 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 and finds the application untimely.
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-2023-01426 in Executive Session on 11 Jun 24:

Work-Product	Panel Chair
Work-Product	Panel Member
Work-Product	Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 1 Apr 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSR, w/atchs, dated 4 Mar 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 5 Mar 24.

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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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