

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01598

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His official military personnel records be amended to reflect 20 years satisfactory service for a reserve retirement.

APPLICANT'S CONTENTIONS

He contacted his Base Individual Mobilization Augmentee Administrator (BIMAA) in Apr 10 explaining he was in school and asked if he could do his annual tour outside the good year period and still have it count. He was told he could; however, when he received his points summary, he noticed he did not receive a good year. He called his BIMAA and asked how this happened. He did not know he never received a good year and would not have caused this situation, but sadly, trusted the person he spoke to on the phone. He cannot prove a phone call but provided certificates that prove he was in school at that time.

He has been in contact with representatives that have been helpful. He was told in a phone conversation he was two retirement points away from a good year when he was in the Navy Reserve. But on 28 Mar 23, he was told that was not the case. But if he had stayed in the Air National Guard just 17 more days or transferred from the Navy to the Air Force two weeks earlier, he would have a good year.

He has a DD Form 214, *Certificate of Release or Discharge from Active Duty*, dated 13 May 14, which reads total prior active federal service: 3 years, 3 months and 28 days, and an NGB Form 22, *Report of Separation and Record of Service*, dated 14 Apr 13, which reads total prior active federal service: 1 year, 4 months and 11 days, clearly a mistake. He also made mistakes. For example, upon reenlisting in 1997, he did not make the connection between good and bad years. The school issue in 2010 was probably a mistake by the BIMAA. He asked that these factors be taken into consideration. He has over 20 years of service combined, which is why he is asking if these issues can be corrected regardless of the wording.

The reason he waited so long is he dreaded the paperwork nightmare involving this situation. However, as a struggling senior citizen, barely holding on to his home with only social security and a part time job is overwhelming. Again, he would like to point out he has over 20 years of service, regardless of mistakes, and hopes his points may be corrected favorably.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged [State] Air National Guard (ANG) master sergeant (E-7).

On 28 Oct 85, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the Air Force Reserve (AFR).

On 10 Jun 92, according to Reserve Order XXXXX, dated 13 Jun 92, the applicant was honorably discharged from the AFR.

According to a *Statement of Service for Navy Reserve Retirement*, dated 14 Dec 22, the applicant served in the Navy Reserve from 18 Apr 96 through 10 Apr 00.

On 11 Apr 00, according to DD Form 4, the applicant entered the AFR.

On 16 Oct 12, according to Reserve Order XXXXX, dated 15 Oct 12, the applicant was released from the AFR.

On 17 Oct 12, according to DD Form 4, the applicant entered the [State] ANG.

On 14 Apr 13, according to Special Order XXXXX, dated 11 Jun 13, the applicant was honorably discharged from the [State] ANG and as a member of the Reserve of the Air Force.

On 14 Apr 13, according to NGB Form 22, the applicant was furnished an honorable discharge and credited with 24 years, 10 months, and 27 days total service for pay, and 18 years total service for retired pay.

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

AIR FORCE EVALUATION

ARPC/DPTSP 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. Unless the applicant can provide documentation for points that have not been accounted for in his record, no additional points can be awarded.

The Points Management Team researched the applicant's master personnel records, as well as the documentation provided, and found his service history is correct. The applicant was discharged with 18 years satisfactory service towards retirement. According to the points summary, the applicant had over six unsatisfactory years during his military career. His record shows he was in a non-participating status in the Inactive Ready Reserve from 1 Jun 87 – 10 Jun 92. Research shows that based on the number of years the applicant was in an inactive status, any corrections made to the record would not help him obtain 20 satisfactory years as he was discharged before completing a full anniversary year from 18 Apr 12 – 14 Apr 13.

The applicant contends while he was in reserve status in 2010, his BIMAA informed him that he would receive a satisfactory year while in school, without completing his annual tour during his anniversary year. Per AFI 36-2254, Volume 1, *Reserve Personnel Participation*, dated 26 May 10, Chapter 1.4.1., "The member may be excused for failing to accrue the 50-point minimum due to personal hardship or other extraordinary circumstances. *Note*: Members do not receive credit for a satisfactory year of service for the year that is excused."

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 16 Nov 23 for comment (Exhibit D), and the applicant replied on 24 Nov 23. In his response, the applicant again contended he called his BIMAA concerning his being in school that year. He was not aware of

the AFI 36-2254V1 reference which was provided with the ARPC memo. He was aware that losing a retirement year is not what he wanted. He called the BIMAA asking if he could take his annual tour outside of a good year and still receive a good year due to being in school and was told he could do that. When he saw he did not receive a good year, he called the BIMAA's office and explained what happened, but could not recall with whom he spoke. During his two conversations with the BIMAA, he was not told about AFI 36-2254V1 but given a green light. As he did not record his conversation, the only evidence he has is the certificates that show he did attend school at that time. All he can think of as further proof is for him to take a polygraph and asks if this would be possible and admissible as proof. He is willing to pay for one at his own expense.

As for 18 Apr 12 – 14 Apr 13, he was preparing to move to another state and does not recall why he did not end up finishing that year. If he cannot take a polygraph as proof, he asked that he be provided a waiver to reenlist and finish the time needed. Finally, he agrees with the ARPC proposed directive to use his Inactive Duty Training for award of 1 year, 11 months and 27 days of satisfactory time toward retirement.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board 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 (DAFI) 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.

2. The applicant exhausted all available non-judicial relief before applying to the Board.

3. After reviewing all Exhibits, to include the applicant's rebuttal, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/DPTSP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant did not perform sufficient duty within his anniversary years to earn 20 years satisfactory service towards retirement. While he may have been excused from performing duty to attend school in 2010, in accordance with AFI 36-2254, Volume 1, members do not receive credit for a satisfactory year of service for the year that is excused. Therefore, the Board recommends against correcting the applicant's records.

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 DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2023-01598 in Executive Session on 12 Mar 24:

, 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 4 Apr 23.

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

Exhibit C: Advisory Opinion, ARPC/DPTSP, w/atchs, dated 1 Nov 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Nov 23.

Exhibit E: Applicant's Response, w/atchs, dated 24 Nov 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