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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

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DOCKET NUMBER: BC-2023-01765

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be allowed to transfer his Post-9/11 GI Bill education benefits (TEB) to his eligible dependents.

APPLICANT'S CONTENTIONS

Prior to his separation on 30 Apr 10, he applied to transfer education benefits to his dependents. According to his pre-separation checklist, the base education office acknowledged he was entitled to the Montgomery GI Bill (MGIB) education benefit after his separation, and the Department of Veterans Affairs confirms 36 months of education benefits. However, he recently discovered his dependents are not eligible to receive education benefits. He contends the merging of systems could have led to the administrative error that resulted in his dependents being ineligible to receive education benefits.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 12 Jan 98, according to DD Form 2366, *Montgomery GI Bill Act of 1984 (MGIB)*, the applicant certified his enrollment in the entitlement program.

On 17 Dec 09, according to DD Form 2648, *Pre-separation Counseling Checklist for Active Component Service Members*, provided by the applicant, he and the transition counselor certified that he was counseled regarding his education benefits in Section IV, Block 13a. *Education Benefits (Montgomery GI Bill, Veterans Educational Assistance Program, Vietnam-era, etc.)*.

On 30 Apr 10, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was honorably released from active duty after 12 years, 4 months, and 2 days of active service.

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

AIR FORCE EVALUATION

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AFPC/DP3SA recommends denying the applicants request to transfer education benefits to his eligible dependents. Based on documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice on the part of the Air Force. He contends prior to separating from active duty in Apr 10, he applied to transfer his education benefits to his dependents. However, he recently discovered his dependents were ineligible to receive the benefits. Furthermore, he contends the pre-separation checklist, signed by a representative from the base education office, confirms his eligibility to transfer education benefits to his dependents. The Defense Manpower Data Center (DMDC) shows no record the member applied for TEB. Without a request, eligibility for the program could not be established as Directive-Type Memorandum (DTM) 09-003: *Post-9/11 GI Bill*, Attachment 2 [3.a.(1)] and AFI 36-2306_AFGM1, *The Education Services Program [18.a.(2)]*, cite the date of request as the date on which the appropriate service obligation would be applied. In accordance with DTM 09-003, Attachment 2 [3.g.(1) and 3.i.], all requests for TEB must be submitted via the DMDC TEB web application while serving as a member of the Armed Forces. Additionally, based on the member's Total Active Federal Military Service Date (29 December 1997), he would have incurred a four-year service obligation with TEB approval.

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 9 Aug 23 for comment (Exhibit D) but has received no response.

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/DP3SA and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board found no evidence the applicant applied to transfer educational benefits to his dependents prior to separating from active duty. 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)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and 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

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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-2023-01765 in Executive Session on 13 Feb 24:

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

Exhibit A: Application, DD Form 149, w/atchs, dated 26 May 23.

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

Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 31 Jul 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 9 Aug 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.

3/11/2024

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