



**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02220

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. His percent multiplier used to compute his military retired pay for disability retirement be changed from 40 percent disability to a regular retirement at 54 percent computed for years of service.
2. His retirement pay date be changed to 1 Jan 11.
3. His grade be corrected to major (O-4).

APPLICANT'S CONTENTIONS

At the time of his retirement, he was medically retired at 40 percent. Since he has over 21 years of service, he should be granted a regular retirement with a retirement date of 1 Jan 11. His retirement pay should reflect this change and should be calculated based on his 21 years, 6 months, and 25 days of service, a retirement percentage of 54 percent. At the time of his retirement, he had a line number to major and was told his grade would be set to major, which is reflected on his retirement identification card.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a medically retired Air Force major (O-4).

On 31 Aug 10, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit due to his medical condition of chronic low back pain with a disability compensation rating of 40 percent with a recommendation of "Permanent Retirement."

On 13 Sep 10, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant agreed with the findings and recommended disposition of the board.

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Dated 22 Sep 10, Special Order [REDACTED], indicates the applicant was permanently disability retired in the grade of major with a compensable percentage for physical disability of 40 percent, effective 24 Dec 10.

On 23 Dec 10, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged in the grade of major (O-4E) after serving 21 years, 6 months, and 18 days of active duty. He was discharged, with a narrative reason for separation of "Disability, Permanent."

Dated 21 May 24, the applicant's Officer Grade History report shows the highest grade he held on active duty was captain (O-3).

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

APPLICABLE AUTHORITY/GUIDANCE

Per AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*, paragraph 5.19, *Date of Disability Retirement or Discharge*, HQ AFPC/DPPD (Disability Office) determines the retirement or discharge date no later than 10 days from the date of the Secretarial determination of unfitness. Appropriate processing and permissive temporary duty (TDY) time will be considered before the effective retirement date is established. If members have not previously sold 60 days of accrued leave after 10 Feb 76, they must sell the leave at separation or retirement. Members retiring or separating for disability may use accrued leave that they cannot sell back. If they have sold the maximum leave permitted by law, HQ AFPC/DPPD will add their accrued leave to the 20-day processing time (30 days if overseas) to arrive at the final discharge or retirement date. HQ AFPC/DPPD will establish disability separation and retirement dates. The date of separation or retirement will be established not to exceed 90 days from date of Secretary of the Air Force (SAF) Memorandum approving the separation or retirement.

AIR FORCE EVALUATION

The Defense Finance and Accounting Services (DFAS-JFBEB/CL) recommends denying the application. The applicant chose to take a Career Status Bonus (CSB). The CSB offered to soldiers is \$30,000.00 upon reaching 15 years active service who initially entered the Armed Forces on or after 1 Aug 86. By receiving the CSB, the soldier agrees to complete 20 years of service and upon retiring will receive a reduced retired pay. Under 10 U.S.C. Section 1201 a member with a disability rating of at least 30 percent or who served at least 20 years can be retired for a disability that incurred while entitled to basic pay. The applicant's disability for retirement is 40 percent. 10 U.S.C. Section 1208 allows for those who are part of the regular component and retire for physical disability to be credited with the higher years of service as part of the computation for retired pay. The applicant's military retired pay is currently computed using his years of service of .5375 but has the reduction factor due to REDUX (the offset due to the Military Retirement Reform Act (MRRA) of 1986) that lowers the percent multiplier to .4525. Once he reaches age

62 and qualifies to have his pay computed using the percent multiplier of .5375, the offset due to REDUX will also be adjusted so he will receive his full retired pay without the reduction.

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 4 Jun 24 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 DFAS-JFBEB/CL and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board finds his retirement pay is calculated correctly due to his choice to take the CSB. His military retired pay is currently computed using his years of service of .5375 but has the reduction factor due to REDUX that lowers the percent multiplier to .4525. Furthermore, the Board finds no error or injustice occurred in the processing of the applicant's medical disability case. Even though the applicant has over 20 years of service, he was still retired under the DES and his retirement date was established by AFPC Disability Office not to exceed 90 days from date of the SAF Memorandum approving the separation or retirement. Lastly, the Board noted the applicant wanted his grade corrected to major; however, his DD Form 214, his disability retirement order number [REDACTED], and the pay records he submitted all show his retired grade as major (O-4). The Board finds these documents all reflect his retirement grade of major with no further correction needed. At the time his disability retirement order number [REDACTED] *Work-Product* was published, his current grade was captain (O-3) and his Officer Grade History report shows the highest grade he held on active-duty was captain. 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.

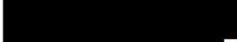
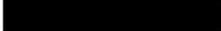
RECOMMENDATION

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-2023-02220 in Executive Session on 10 Sep 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 5 Jul 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, DFAS-JFBEB CL, w/atchs, dated 3 Jun 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 4 Jun 24.

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.

4/1/2025



Board Operations Manager, AFBCMR

Signed by: 