



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02934

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her DD Form 214, *Certificate of Release or Discharge from Active Duty*, Block 28, *Narrative Reason for Separation*, reflect Permanent Disability Retirement versus Disability, Temporary.

APPLICANT'S CONTENTIONS

The human resources team at her current office of employment, National Oceanic Atmospheric Administration (NOAA) stated she must have the correct disability type of separation on her DD Form 214 to buy back her military time for Federal retirement. She was also advised by multiple Department of Veterans Affairs (DVA) representatives that she should have received an updated DD Form 214 after she was placed on the permanent disability retired list (PDRL).

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 24 Feb 11, according to Special Order **Work-Product** dated 25 Oct 10, the applicant was placed on the Temporary Disability Retired List (TDRL) in the grade of SSgt with a compensable percentage for physical disability of 40 percent.

On 27 Jul 12, AFPC/DPSDD notified the applicant of her removal from the TDRL and permanent retirement with a compensable disability rating of 40 percent; and a new DD 214 "will not be issued as time spent on TDRL is not counted as active time."

On 16 Aug 12, according to Special Order **Work-Product** dated 27 Jul 12, the applicant was removed from the TDRL and retired with a compensable percentage of 40 percent for physical disability.

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

AFBCMR Docket Number BC-2023-02934

Work-Product

Work-Product

APPLICABLE AUTHORITY/GUIDANCE

Title 10, United States Code, Section 1168: Discharge or release from active duty: limitation; DoDI 1336.01, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)*; AFI 36-3202, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)*; DD Form 214 Total Force Personnel Services Delivery Guide. The DD Form 214 is prepared in accordance with the aforementioned publications and is used to record qualifying active duty service.

AIR FORCE EVALUATION

AFPC/DPMSSR recommends denying the application. Based on applicable guidance, a DD Form 214 is not re-issued for members being removed from the TDRL and placed on the PDRL. A letter addressed to the applicant from the AFPC Disabilities Office, dated 27 Jul 12, indicated a new DD Form 214 is not prepared when a member is removed from TDRL. The applicant should have received all pertinent documentation from the Disabilities Office to keep with the original DD Form 214 and provide to the DVA, or any other agency, inquiring about the member's status and years of service for retirement. The applicant should contact the Disabilities office for copies of this documentation if she no longer has it.

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 13 Mar 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 AFPC/DPMSSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. 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). 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 and finds the application untimely.

RECOMMENDATION

AFBCMR Docket Number BC-2023-02934

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-2023-02934 in Executive Session on 11 Jun 24:

Work-Product

Panel Chair

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Panel Member

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Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 5 Sep 23.

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

Exhibit C: Advisory Opinion, AFPC/DPMSSR, dated 6 Mar 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Mar 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.

7/30/2024

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