



Work-Product

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2023-03060

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT’S REQUEST

He receive retroactive retired pay.

APPLICANT’S CONTENTIONS

Due to an administrative Air Force error, his date of birth (DOB) was incorrect in his records. This resulted with him not receiving retired pay upon turning 60 years of age.

The applicant’s complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve lieutenant colonel (O-5).

According to Reserve Order **Work-Product**, dated 20 Aug 03, the applicant was assigned to the Retired Reserve Section and placed on the Air Force Reserve Retired List. His date assigned to the Retired Reserve and his DOB are reflected as 6 Oct 03.

According to Reserve Order **Work-Product**, dated 23 Jan 23, the applicant was placed on the Air Force Retired List, effective 27 Dec 12. His DOB is reflected as 27 Dec 52.

According to Reserve Order **Work-Product**, dated 24 Jan 23, Reserve Order **Work-Product** was amended, and his DOB was changed from 6 Oct 03 to 27 Dec 52.

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

EVALUATION

DFAS-JFBEB/CL (Defense Finance and Accounting Service Military Retired Pay) does not provide a recommendation due to not having the authority to waive the Barring Act; however, an informational advisory opinion was provided. A member, after reaching the age and service requirement under Title 10 United States Code Section 12731 (10 U.S.C. § 12731), may apply for military retirement. The application for retired pay determines the date in which retired pay commences. Typically, when there is a delay in applying for retired pay a member may receive a retroactive payment. The retroactive payment is subject to 31 U.S.C. § 3702, known as the 6 Year Barring Statute.

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For the purposes of the Survivor Benefits Plan (SBP), a non-regular service member is charged SBP effective the date the application for retired pay benefits is received by the Reserve Personnel Center. An exception to this rule is if the member elects not to participate in SBP, chooses a reduced level of coverage, or elects to participate in Reserve Component Survivor Benefits Plan (RCSBP).

On 31 Jan 23, DFAS received Reserve Order **Work-Product** dated 23 Jan 23, authorizing retired pay effective 27 Dec 12. Included in the package was a copy of the applicant's signed DD Form 2656, *Data for Payment of Retired Personnel*, dated 12 Jan 23, his personal data, and points statement. On 13 Mar 23, the applicant's retired pay account was established. His first monthly retired pay in the gross amount of \$5,532.00 was paid on 31 Mar 23, for the entitlement month of Mar 23. For the period of 27 Dec 12 through 28 Feb 23, the total amount of gross retired pay is \$563,377.00 of which DFAS paid \$350,149.60 (minus applicable deductions). The remaining \$213,227.40 for the period of 27 Dec 12 through 12 Jan 17, was barred. On 29 Jul 24, DFAS received information that shows there was an error in the applicant's DOB on Reserve Order **Work-Product** issued 20 Aug 03, and a potential correction was made to his military records prior to his retirement. The applicant's retired pay account was established with the correct DOB as shown on Reserve Order **Work-Product**. However, DFAS records do not show if the error in his DOB on Reserve Order **Work-Product** prevented him from applying for retirement timely. Consequently, DFAS utilized the date the applicant signed his DD Form 2656 as the date he applied for retirement.

DFAS does not have the authority to waive the Barring Act; however, should the record be corrected to show that the applicant applied for his retirement at the time he met the age and service requirement, there will be SBP costs charged retroactively to that date. His current DD Form 2656 shows he applied for retirement on 12 Jan 23, and so SBP was charged the first of the month following his application date. Should the record be corrected to change the application date the retroactive credit will be reduced for the SBP costs, which is 30 percent of the SBP base for the period of 27 Dec 12 through 31 Jan 23, versus the SBP costs starting 1 Feb 23, to current. This will significantly reduce the barred credit in the amount of \$213,227.40.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 26 Aug 24 and 12 Sep 24 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was 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 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 substantiates the applicant's contentions. Specifically, the applicant has provided sufficient evidence his DOB was erroneously recorded by the Air Force resulting with a delay in the start date of his retired pay. Therefore, the Board recommends correcting the applicant's records as indicated below.

Work-Product

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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show he applied for retirement at the time he met the age and service requirement, and that he receive retroactive retired pay for the period of 27 Dec 12 through 12 Jan 17.

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-2023-03060 in Executive Session on 19 Nov 24:

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

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 19 Sep 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, DFAS-JFBEB/CL, w/atch, dated 15 Aug 24.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 26 Aug 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.

9/29/2025

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Board Operations Manager, AFBCMR
Signed by: Work-Product