



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03224

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His retirement pay be for 22 years of service versus 21 years.

APPLICANT'S CONTENTIONS

There is a discrepancy in his retired military pay. His Jun 05 Leave and Earnings Statement (LES) and his Data Verification Brief clearly show his 22 years of service. However, the Defense Finance and Accounting Service (DFAS) informed him he was being paid for 21 years of service. He enlisted on 2 Mar 83, pay date is 2 Mar 83 and his date of separation is 6 Oct 05.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force master sergeant (E-7).

The applicant's DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects he entered active duty on 23 Jan 84 and was honorably discharged on 30 Sep 05 for the purpose of retirement. He was credited with 21 years, 8 months, and 8 days of active duty.

The applicant's retirement order, Special Order Number **Work-Product** dated 30 Nov 04, reflects he was retired effective 1 Oct 05. His service per 10 U.S.C. § 1405 reflects as 21 years, 8 months, and 21 days. His service for basic pay is 22 years, 6 months, and 29 days.

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

AIR FORCE EVALUATION

AFPC/DPMLT recommends denial. The active duty dates on his DD Form 214 are correct. The applicant enlisted in the Air Force Reserve Delayed Enlistment Program (DEP) on 2 Mar 83, which was creditable for active duty pay but not creditable for active duty service.

The DEP date is used to determine longevity pay while on active duty. However, upon retirement, the retirement pay is determined by the number of years and months in the "Service Per 10 USC 1405" listed on the retirement order. The applicant's retirement order shows his 10 U.S.C. § 1405 pay for retirement is 21 years, 8 months, and 21 days.

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Controlled by: SAF/MRB
CUI Categories: **Work-Product**
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

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 1 May 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/DPMLT and finds a preponderance of the evidence does not substantiate the applicant's contentions. Based on the evidence, the applicant's creditable service for retired pay per 10 U.S.C. § 1405 is 21 years, 8 months, and 21 days and not 22 years as the applicant contends. 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. 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

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-2023-03224 in Executive Session on 9 Jul 24:

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| Work-Product | Panel Chair |
| Work-Product | Panel Member |
| Work-Product | Panel Member |

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 31 Aug 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMLT, w/atchs, dated 20 Mar 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 May 24.

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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.

7/31/2024

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Board Operations Manager, AFBCMR

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