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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03426

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be allowed to transfer his Post-9/11 GI Bill Transfer of Education Benefits (TEB) to his dependent.

APPLICANT'S CONTENTIONS

He understands that he is not qualified for TEB; however, he requests an amendment of his eligibility for the program. He and his wife are enduring a precarious financial situation. He is presently enrolled in training as a Department of Veterans Affairs (DVA) Chapter 31 student and his wife is working on her doctorate and both are servants to their community.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably released Air Force airman first class (E-3).

On 12 December 2006, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the Regular Air Force.

On 11 December 2010, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was released from active duty and received an honorable character of service under the provision of AFI 36-3208, *Administrative Separation of Airmen*. The narrative reason for separation reflects "Completion of Required Active Service." The applicant served 4 years total active service and was credited with 1 year, 6 months and 24 days of Foreign Service. As noted in the documents provided by AFPC/DP3SA, the applicant did not apply for TEB.

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

APPLICABLE AUTHORITY/GUIDANCE

DoDI 1341.13, *Post-9/11 GI Bill*, Enclosure 3, Paragraph 3, dated 31 May 2013 states: Any service member on or after 1 August 2009, who is entitled to the Post-9/11 GI Bill at the time of the approval of his or her request to transfer that entitlement under this section, may transfer that entitlement provided he or she has at least 10 years of service in the Military Services (active duty or Selected Reserve) on the date of approval, is precluded by either standard policy (Service or DoD) statute from committing to four additional years, and agrees to serve for the maximum amount of time allowed by such policy or statute. (Note that this provision uses the same language

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as AFI 36-2649, *Voluntary Education Program*, paragraph A13.18.1.1.2 paragraph 3.a.(2)). The effect of this paragraph is the elimination of the retainability requirement for members who have at least 10 years of service, who are subject to early separation due to policy or statute, and who agree (or would have agreed) to serve the maximum time allowed.

AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the application. The Defense Manpower Data Center (DMDC) shows no record the applicant applied for TEB. Without a request, eligibility for the program could not be established as AFI 36-2306, *Voluntary Education Program*, Attachment 9 [A9.18.1.2.] and Directive-Type Memorandum (DTM) 09-003: *Post-9/11 GI Bill*, Attachment 2 [3.a.(1)], 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.

Based on the 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. DMDC shows no record the applicant applied for TEB.

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 20 February 2024 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. In addition, the Board notes the Defense Management Data Center shows no record the applicant applied for TEB. 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.
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 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-2023-03426 in Executive Session on 9 July 2024:

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, dated 17 October 2023.

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

Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atch, dated 8 February 2024.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 20 February 2024.

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.

9/30/2024

X

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Board Operations Manager, AFBCMR

Signed by:

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