

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-02288

COUNSEL: NONE

HEARING DESIRED: NO

AUG 14 1998

APPLICANT REQUESTS THAT:

His Air Force Reserve time, before he went on active duty, be moved to the end of his active duty in order for his last six (6) years of service be reflected as Air Force Reserve time.

APPLICANT CONTENDS THAT:

He was found physically disqualified from further Air National Guard (ANG) service and was involuntarily separated. He states he was informed that since he had 16 years of service, being involuntarily separated, he would be eligible for reduced retirement pay at age 60. He was later informed by Headquarters Air Reserve Personnel Center (HQ ARPC) that he would not be eligible for retired pay because his last six (6) years of service was not in the Reserve.

Applicant's submission is attached at Exhibit A.

STATEMENT OF FACTS:

The relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letters prepared by the appropriate office of the Air Force Office of Primary Responsibility (OPR). Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

The Director of Personnel Program Management, Headquarters Air Reserve Personnel Center (HQ ARPC/DPAR), states that the Fiscal Year (FY) 1995 National Defense Authorization Act, signed into law on 5 October 1994, authorized members who have completed at least 15 but less than 20 years of satisfactory Federal service, and who are medically disqualified for retention in the military

service, early qualification for retired pay at age 60 under the provisions of Title 10, U.S.C., Section 1273a.

Applicant submitted an AF Form 131, Application for Transfer to the Retired Reserve by reason of physical disqualification to be effective on 15 October 1997. He states he was informed that since he had 16 years of service and was being involuntarily separated that he would be eligible for reduced retirement pay at age 60.

Applicant's records show that he will have 16 years, 2 months, and 20 days of satisfactory service on 15 October 1997. However, he does not meet the requirement of having the last 6 years of qualifying service in a Reserve component. HQ ARPC/DPAR recommends his request be approved. Applicant participated satisfactorily until he was found to be medically disqualified for worldwide duty and was no longer able to participate.

A copy of the Air Force evaluation is attached at Exhibit C.

Based on the applicant's voluntary release from active duty on 27 July 1992, for which he received the Special Separation Benefit (SSB) lump sum payment, the AFBCMR requested an additional advisory opinion. It was requested that his records be reviewed and a determination made as to whether or not applicant would have been eligible for the Special Separation Bonus (SSB) should the active service period be changed. The AFBCMR also requested a determination be made that if the applicant's records were corrected by changing his active duty time to Reserve time, and if found that he would not have been eligible for the SSB lump sum payment, would the Air Force be required to recoup the SSB payment.

ADDITIONAL AIR FORCE EVALUATION:

The Chief, Retirements Branch, HQ AFPC/DPPRR, states that the applicant's records were reviewed and it was found that the applicant was not eligible for SSB under the Fiscal Year 1992/1993 (FY92/93) drawdown policy. In order to be eligible for SSB, applicant's Total Active Federal Military Service Date (TAFMSD) had to be 31 December 1983; applicant's TAFMSD is 11 April 1984. However, Title 10 U.S.C., Section 1174 states a member must have six but less than twenty years of active service. So, by law (Section 1174), the applicant was eligible for SSB. They cannot say how or why the applicant was approved for SSB in FY92 without meeting Air Force policy guidelines, but they can say that he did meet the requirements as outlined in Section 1174. It is possible the applicant was approved as an exception to policy by the Secretary of the Air Force Personnel Council, although this cannot be verified since there are no records from that time.

Since the applicant would be eligible for the SSB even if his service dates change, recoupment of monies is not necessary. Section 1174a and 1174h states that a member who received separation pay and later qualifies for retired or retainer pay will have deducted the total amount of separation pay.

A copy of the additional Air Force evaluation is attached at Exhibit D.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION:

A copy of the additional Air Force evaluation was forwarded to the applicant on 18 May 1998 for review and response within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice warranting favorable consideration to applicants request. After a thorough review of the evidence of record and applicant's submission, we note that when the applicant was found medically disqualified for retention in the military service he was informed that since he had 16 years of service and was being involuntarily separated, he would be eligible for reduced retirement pay at age 60. However, after he submitted his application for transfer to the Retired Reserve, it was found that since he did not meet the requirement of having the last six years of qualifying service in a Reserve component, he was ineligible for early retirement under the Reserve Transition Assistance Program (RTAP). HQ ARPC/DPAR recommends the applicant's request be approved and we agree. Applicant participated satisfactorily until he was found to be medically disqualified for worldwide duty and was no longer able to participate. Therefore, we recommend the applicant's records be corrected to the extent indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that:

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a. On 7 March 1991, he was honorably released from active duty in the Regular Air Force, received a Special Separation Bonus (SSB) under the provisions of Title 10, U. S. Code, Section 1174 (h) and 1174a. and, was transferred to the Air Force Reserve in the grade of staff sergeant.

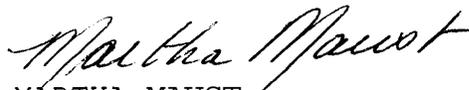
b. He enlisted in the U. S. Air Force Reserve on 8 March 1991 through 27 July 1992 with the component-Reserve in the grade of staff sergeant.

The following members of the Board considered this application in Executive Session on 4 August 1998, under the provisions of AFI 36-2603:

Ms. Martha Maust, Panel Chair
Mr. Richard A. Peterson, Member
Mr. Patrick R. Wheeler, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 25 Jul 97, w/atchs.
- Exhibit B. Applicant's Microfiche Records.
- Exhibit C. Letter, HQ ARPC/DPAR, dated 30 Sep 97.
- Exhibit D. Letter, HQ AFPC/DPPRR, dated 4 May 98, w/atchs.
- Exhibit E. Letter, AFBCMR, dated 18 May 98.


MARTHA MAUST
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

AFBCMR 97-02288

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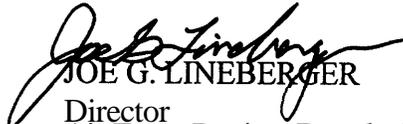
MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that:

a. On 7 March 1991, he was honorably released from active duty in the Regular Air Force, received a Special Separation Bonus (SSB) under the provisions of Title 10, U. S. Code, Section 1174 (h) and 1174a. and, was transferred to the Air Force Reserve in the grade of staff sergeant.

b. He enlisted in the U. S. Air Force Reserve on 8 March 1991 through 27 July 1992 with the component-Reserve in the grade of staff sergeant.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency