RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2008-03908

INDEX CODE: 110.01, 136.01

XXXXXXXXXXXXXXXXXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His Mandatory Separation Date (MSD) of 31 October 2008 be extended six months to allow adequate time to process a request for an MSD extension through Air Force Reserve Command (AFRC) channels to the Secretary of the Air Force Personnel Council (SAFPC) for a final determination.

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APPLICANT CONTENDS THAT:

He is extremely proud to be a member of the Air Force Reserve and is totally committed to the ongoing achievement of optimum mission readiness.

In support of his appeal, the applicant provides copies of his 4 October 2008 letter to his Squadron Commander applying for an MSD extension; and a 4 October 2008 letter from his Squadron Commander concurring with his request and recommending his MSD be extended from 31 October 2008 to 23 October 2012.

Applicant’s complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

The applicant is a residency trained flight surgeon assigned to the Air Force Reserve (AFR) Unit Program and serving in the grade of lieutenant colonel (O-5). On 4 October 2008, he made formal application to extend his MSD of 31 October 2008 to 23 October 2012. He has completed 22 years of satisfactory service and his Date of Birth is 23 October 1945 (age 63).

Title 10, United States Code (10 USC), Section 14509, states that a reserve officer serving in a grade below brigadier general, who has not been recommended for promotion to the grade of brigadier general, and who is not a member of the Retired Reserve, “…shall on the last day of the month in which that officer becomes 62 years of age be separated…” In the absence of a waiver, the mandatory language of the statute requires separation of the officer upon reaching age 62. An exception exists under 10 USC, Section 14703, which allows the Secretary of the Air Force, with the officer’s consent, to retain in an active status not later than the date on which the officer becomes 67 years of age, any reserve officer who is designated as a medical professional. The authority is discretionary and the final decision resides with the Secretary of the Air Force.

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AIR FORCE EVALUATION:

AFRC/SG recommends denial of the requested relief. The applicant’s original MSD was 31 October 2005 based on age 60, and it was extended to 31 October 2008 under 10 USC, Section 14703.

In October 2007, the applicant was notified by certified letter of the requirements for requesting an MSD extension. He did not initiate a request for retention until 27 days prior to his MSD, which did not allow adequate time for processing the request through the chain of command prior to his MSD. AFRC Medical Corps manning is 95 percent (571 authorized, 540 assigned).

The AFRC/SG evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A complete copy of the evaluation was forwarded to the applicant on 6 November 2008, for review and comment, within 30 days. However, as of this date, no response has been received by this office.

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THE BOARD CONCLUDES THAT:

1.  The applicant has exhausted all remedies provided by existing law or regulations.

2.  The application was timely filed.

3.  Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. It appears the applicant was given timely notification and sufficient opportunities to comply with established command policy and procedures for requesting an MSD extension; however he did not do so until it was too late for processing his request through the chain of command for final SAFPC determination. Further, the applicant has not presented reasons why he did not pursue an extension through normal channels. Therefore, in the absence of evidence to the contrary or any evidence of command support, we find no compelling basis to recommend granting the relief sought in this application.

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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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The following members of the Board considered Docket Number BC-2008-03908 in Executive Session on 27 January 2009, under the provisions of AFI 36-2603:

Mrs. Barbara A. Westgate, Panel Chair

Mr. Steven A. Cantrell, Member

Mr. Anthony P. Reardon, Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 21 Oct 08, w/atchs.

Exhibit B. Letter, AFRC/SG, dated 5 Nov 08.

Exhibit C. Letter, SAF/MRBR, dated 6 Nov 08.

BARBARA A. WESTGATE

Panel Chair