

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01129
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

A statement be added to his record stating had he not become disabled, he would have had a very good chance of remaining in the Air Force for 20 years in order to qualify for Concurrent Retirement and Disability Pay (CRDP)

APPLICANT CONTENDS THAT:

He retired with an 80 percent disability; however, he does not have enough total active service to qualify for CRDP. He contacted the CRDP organization and was informed that if they received a statement to consider him as a 20-year retiree, had he not been disabled, he would have a very good chance of qualifying for CRDP.

He had to retire after serving 14 years and 10 months of active duty with the Air Force, and approximately 2 years of active duty with the Navy.

He had a wonderful military career; he achieved numerous accolades for his performance. His assignments were numerous as he was trained in a variety of highly responsible activities.

In support of his request, the applicant provides a personal statement, and copies of his DD Forms 214, *Certificate of Release or Discharge from Active Duty* and *Armed Forces of the United States Report of Transfer or Discharge*, a Court Order for name change, Officer Performance Reports (OPRs), and a summary of disability.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 31 May 80. On 12 Apr 95, he was relieved from active duty and his name was placed on the Temporary Disability Retired List (TDRL) in the grade of major.

On 9 Sep 96, the applicant's name was removed from the TDRL and he was permanently retired by reason of physical disability, with

a compensable disability rating of 50 percent. He was credited with 16 years, 10 months, and 1 day of active service for retirement.

The CRDP program is a phased-in restoration of the retired pay deducted from a military retirees account due to their receipt of Department of Veterans Affairs (DVA) compensation. To be eligible for CRDP, members have to have a DVA-rated, service-connected disability of 50 percent or higher and have twenty (20) or more qualifying years of service for a normal retirement.

AIR FORCE EVALUATION:

The Defense Finance and Accounting Service Retired and Annuity Pay Office (DFAS-RPB-JBJE/CL) indicated that the applicant is not eligible for CRDP as he does not have the required 20 years of active service. The CRDP was authorized under Title 10, United States Code 1414, Section 641 (Public Law 108-136) effective 1 Jan 04. CRDP allows military retirees both military retired pay and DVA compensation.

The applicant is rated at 80 percent by the VA, and he did retire under a disability retirement; however, his retirement is not qualified for a non-disability retirement as this requires 20 or more years of active service. He retired with 16 years, 10 months and 1 day of active service; therefore, he is not entitled to CRDP.

In order for the applicant to qualify for CRDP, he must possess a DVA disability rating of 50 to 100 percent and is a disability retiree who earned entitlement to retired pay under any provision of law other than solely by disability.

DFAS pointed out that the applicant may be entitled to Combat Related Special Compensation (CRSC). CRSC was authorized under Public Law 107-314. CRSC provides compensation to certain retirees with combat related disabilities. A retiree is entitled to CRSC only if the combined disability rating from the Military department concerned, as of the date on which the member retired, or the current combined disability rating (according to the VA) meets the following criteria:

1) For a member who has been awarded the Purple Heart, a combined disability rating for Purple Heart disabilities that is at least 10 percent disabling 1 Jun 03 to present or,

2) From 1 Jun to 21 Dec 03: A combined disability rating for all combat-related disabilities that is at least 60 percent disabling.

3) From 1 Jan 04 to present: A combined disability rating for all combat-related disabilities that is at least 10 percent disabling.

A complete copy of the DFAS-RPB-JBJE/CL evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

He would like a statement from SAF/MRBC stating that had he not become disabled, he would have had a very good chance of remaining in the Air Force for a 20-year term.

The applicant's complete response is at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. After a thorough review of the evidence of record and careful consideration of the applicant's contentions, we are not persuaded that he has been the victim of an error or injustice. While the applicant is requesting a letter stating that he would have completed his 20-year term had he not been disability retired, we are aware of no policy or statute that supports this type of correction being made to a member's record. While we understand the applicant's desire to qualify for CRDP, he has not provided evidence that supports that the lack of sufficient years of service to qualify him constitutes an error or injustice. Therefore, we agree with the opinion and recommendation of DFAS and adopt its rationale as basis for our conclusion the applicant has not been the victim of an error or injustice. Absent persuasive evidence that he was denied rights to which he was entitled, we find no 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.

The following members of the Board considered Docket Number BC-2012-01129 in Executive Session on 29 Nov 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 20 Mar 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, DFAS-RPB-JBJE/CL, dated 2 May 12.
- Exhibit D. Letter, SAF/MRBR, dated 4 May 12.
- Exhibit E. Letter, Applicant, dated 15 May 12.

Panel Chair