

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01342

COUNSEL: NONE

HEARING DESIRED: YES

THE APPLICANT REQUESTS THAT:

He be credited with retirement points based on his mandatory separation date (MSD) of 31 Jan 13.

THE APPLICANT CONTENDS THAT:

He would like his MSD extended to allow him the ability to accrue service credit and points from 1 Sep 11 thru 31 Jan 13, his MSD.

In accordance with the Fiscal Year 2007 National Defense Authorization Act (FY07 NDAA), his MSD was extended to the last day of the month in which he turns 62 years of age. However, the NDAA did not waive the requirement of Title 10, Section 12308, which states that individuals may, with concurrence of the Service Secretary concerned, be allowed to accrue service credit and points beyond age 60.

In support of his appeal, the applicant provides a personal statement; a copy of his MSD waiver package, and the disapproval document from Secretary of the Air Force Personnel Council (SAFPC).

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

STATEMENT OF FACTS:

The applicant's MSD was 13 Jan 11, the date he turned age 60. Subsequently, under the provisions of the FY07 NDAA, the applicant's MSD was changed to 31 Jan 13; based on this provision commissioned officers are allowed to serve up to age 62 or maximum time-in-service (TIS) whichever is earlier.

The applicant requested a waiver of Title 10 USC 12308 during his initial Active Guard Reserve (AGR) tour as Reserve Advisor to the Commander, Pacific Command (PACOM/CC) and the Commander of the Air Force Reserve Command (AFRC/CC) submitted a waiver request to the Secretary of the Air Force Personnel Council

(SAFPC), which was approved for service credit through 31 Aug 11.

He was then reassigned to the position of Reserve Advisor to the Commander, Pacific Air Forces (PACAF/CC) and the AFRC/CC requested a waiver of this title/section, to allow him to serve up to his MSD, 31 Jan 13. However, SAFPC disapproved this request.

THE AIR FORCE EVALUATION:

AFRC/All recommends relief be granted. They note the justification submitted by the applicant for this additional waiver fully supports the request, as evidenced by the case file and recommendation from the Commander, Air Force Reserve Command. He recommended the applicant's request to be allowed to accrue service credit and points from 1 Sep 11 through 31 Jan 13 be approved.

The complete AFRC/All evaluation is at Exhibit C.

APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 24 May 12 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit D).

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 error or injustice warranting corrective action. Based on the provisions of Title 10, USC 12308, Air Reserve Component (ARC) members must request a waiver from the Secretary of the Air Force to be credited for service toward retirement beyond age 60. In this case, the applicant had requested a waiver through SAFPC to have his MSD extended to 31 Aug 11 and his request was approved. Based on his new assignment with PACAF/CC, the AFRC/CC requested a waiver of Title 10 Section 12308 to grant the applicant service credit until 31 Jan 13; however, his request was disapproved by SAFPC. Nonetheless, we agree with AFRC/All that based on the justification provided for the additional waiver and the recommendation from the AFRC/CC, we conclude the applicant's request to be allowed to accrue service credit and points from

1 Sept 11 through 31 Jan 13 should be approved. Therefore, in the interest of justice, we recommend the applicant's record be corrected to as indicated below.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issue(s) involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that, on 28 October 2011, under the provisions of Title 10 12308, his request for retention until 31 January 2013 was approved by competent authority, to allow him to receive credit for service and points accrued from 1 September 2011 until his mandatory separation date of 31 January 2013.

The following members of the Board considered AFBCMR Docket Number BC-2012-01342 in Executive Session on 13 September 2012, under the provisions of AFI 36-2603:

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

- Exhibit A. DD Form 149, dated 15 Mar 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFRC/All, dated 17 May 12.
- Exhibit D. Letter, SAF/MRBR, dated 24 May 12.

Panel Chair