

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:                                      DOCKET NUMBER: BC-2012-01595  
  COUNSEL: NONE  
  HEARING DESIRED: YES

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APPLICANT REQUESTS THAT:

His date of separation (DOS) from active duty in the Regular Air Force be adjusted to reflect the day before his appointment in the United States Air Force Reserve (USAFR) in order to eliminate his break in service.

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APPLICANT CONTENDS THAT:

Due to a delay in processing of the 22 August 2011 scroll at the Secretary of Defense (SecDef) level, he incurred a break in service between his DOS and his appointment date in the USAFR. This delay was out of his control.

In support of his appeal, the applicant submits a copy of his Oath of Office and separation documents.

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

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STATEMENT OF FACTS:

The applicant is currently serving as a major (O-4) in the USAFR. He separated from the Regular Air Force effective 12 October 2011 and was appointed an officer in the USAFR effective 20 October 2011 (date of SecDef approval).

In accordance with Deputy Secretary of Defense Memorandum, dated 2 May 2005, all military officer appointments under Section 12203 of Title 10, United States Code (USC), not previously approved by 30 June 2005, shall be submitted to the SecDef for approval. The applicant's release from active duty with an active duty obligation under Section 2123 of Title 10, USC, required a service obligation in a component of the Ready/Selected Reserve for a period not less than twice as long as his remaining active duty service obligation.

The remaining relevant facts, extracted from the applicant's military service record, are contained in the evaluation by the Air Force office of primary responsibility at Exhibit B.

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AIR FORCE EVALUATION:

ARPC/DPT recommends approval. DPT states the applicant requested his record be corrected to reflect his Date Initial Entered Reserve Forces (DIERF) as 2 October 2011; however, this is a fixed date and is not adjusted for time lost or breaks in service. Current policies do not allow for backdating oaths; however, SAF/GCM and the AFBCMR have determined that the AFBCMR has the authority to adjust the date of separation for these officers to prevent a break in service. SecDef General Council determined the appointment date is the date SecDef approves the appointment or the date the oath was administered, whichever is later. The applicant's break in service was at no fault of his own. The appropriate action would be to eliminate the applicant's break in service by correcting his record to reflect his DOS from the Regular Air Force as 19 October 2011.

The complete DPT evaluation, with attachment, is at Exhibit B.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 19 June 2012 for review and comments within 30 days (Exhibit C). As of this date, no response has been received.

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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. Sufficient relevant evidence has been presented to demonstrate the existence of an injustice to warrant relief. After a thorough review of the evidence presented, it appears the applicant's appointment date was appropriately established in compliance with SecDef directive. However, we note the Air Force office of primary responsibility (OPR) indicates that the applicant's break in service was at no fault of his own and should be corrected. Therefore, in an effort to offset any possibility of an injustice, we agree with the recommendation made by the Air Force OPR and recommend the applicant's record be corrected 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 issues 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 reflect that he was not released from active duty, effective 12 October 2011, but was continued on active duty through 19 October 2011.

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The following members of the Board considered AFBCMR Docket Number BC-2012-01595 in Executive Session on 25 October 2012, under the provisions of AFI 36-2603:

, Panel Chair  
, Member  
, Member

All members voted to correct the records, as recommended. The following documentary evidence for AFBCMR Docket Number BC-2012-01595 was considered:

- Exhibit A. DD Form 149, dated 5 Mar 12, with atchs.
- Exhibit B. Letter, ARPC/DPT, dated 30 May 12, w/atch.
- Exhibit C. Letter, SAF/MRBR, dated 19 Jun 12.

Panel Chair