

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02411
COUNSEL: NO
HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

1. His transfer date into the Retired-Reserves be adjusted to a date that would allow him the opportunity to transfer his Post-9/11 GI Bill Educational benefits to his dependents.
 2. Or in the alternative, he remain in the active reserves.
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APPLICANT CONTENDS THAT:

1. The services failed to inform its members who were approaching retirement of the requirement to be on active duty on the 1 Aug 09 effective date of the Post-9/11 GI Bill to be eligible to transfer benefits.
2. He would have extended his enlistment beyond 1 Aug 09 versus 6 Sep 08, had he known of the requirement prior to applying for and entering the Retired-Reserves.

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

STATEMENT OF FACTS:

On 11 Jun 08, the applicant was relieved from his assignment at ARPC/NARS-A, Denver, Colorado and assigned to the Retired Reserve Section, placing him on the Retired Reserve List effective 6 Sep 08.

Public Law No. 110-252 signed by the President on 30 Jun 08, section 3319 (f)(1) as it relates to the Post-9/11 GI Bill states in part that "an individual may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed."

AIR FORCE EVALUATION:

ARPC/DPTT recommends denial. DPTT states that the applicant is not eligible to transfer his Post-9/11 GI Bill educational

benefits to his dependents as defined in Public Law No. 110-252. However, he retains the right to use the benefits himself.

The complete DPTT evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 7 Aug 12, for review and comment within 30 days (Exhibit C). As of this date, this office has not received a response.

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 error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of the Air Force office of primary responsibility and adopt its rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. The program was not effective at the time of his transfer to the retired reserve section and the fact that it was not, has not rendered him the victim of an error or an injustice. While the applicant requests his transfer date be changed or in the alternative he be allowed to remain in the active reserve in order to be eligible to transfer his Post-9/11 GI Bill educational benefits to his dependents, he has not provided any evidence of an error or an injustice to warrant such relief. Therefore, in view of the above and in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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 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 AFBCMR BC-2012-02411 in Executive Session on 11 Feb 13, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 30 May 12, w/atchs.
- Exhibit B. Letter, AFPC/DPTT, dated 17 Jul 12.
- Exhibit C. Letter, SAF/MRBR, dated 7 Aug 12.

Panel Chair