

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Rory Coleman,
Petitioner

v.

Docket No. CR-25-0530

Boston Retirement System,
Respondent

ORDER OF DISMISSAL

On October 24, 2024, the Boston Retirement System notified Petitioner Rory Coleman that the recently enacted HERO Act gave certain veterans another limited opportunity to purchase service credit based on their military service. *See* Acts 2024, c. 178. Mr. Coleman applied for creditable service under the Act. He listed the Navy as his service branch but noted on the application under “Date of Honorable Discharge”: “LGBTQ+ Illegal to serve despite willingness and desire to do so—based on a[na]chronistic laws.” The retirement system sought clarification from Mr. Coleman because he did not submit a copy of his DD-214 discharge form. Mr. Coleman responded that he could not produce a DD-214 because: “I was denied military service under the Uniform Code of Military Justice due to policies that criminalized my identity. I am now seeking equitable access to the buyback opportunity that my similarly situated heterosexual peers were afforded.” On September 5, 2025, the retirement system denied Mr. Coleman’s application because he did not actually serve in the military and

actual service in the military is a requirement to purchase service credit based on military service. Mr. Coleman timely appealed.

On September 19, 2025, I asked Mr. Coleman a series of clarifying questions. In response, Mr. Coleman confirmed that he did not serve in the military at all. He applied and completed the enlistment process through the Navy's Delayed Entry Program. But, when he was offered a Boston Police Department position in November 2006, he chose to become a police officer and withdrew from the Delayed Entry Program. In response to my question whether he was arguing that he should receive creditable service because he was barred from military service, he responded: "No, I am not arguing I was 'barred from military service.' I argue that discriminatory federal policies combined with Massachusetts' own criminalization of LGBTQ+ individuals created a coercive environment that made military service an unconscionably risky career choice. The Commonwealth's denial of creditable service incorporates and perpetuates this discrimination by using my coerced choice, made under conditions Massachusetts now officially condemns, to deny equal treatment under state retirement law."

With this clarification from Mr. Coleman, I have no other choice but to deny his appeal because service in the military is a requirement to purchase military service-related credit. The analysis here is straightforward. Among other things, the HERO Act gave "veteran[s] who served in the armed forces of the United States" a limited second chance to purchase service credit based on their military service. Acts 2024, c. 178, § 18. *See also* G.L. c. 32, § 4(1)(h). It almost goes without saying that purchasing military service first requires a member to serve in the military. Mr. Coleman admits that he did

not serve. He is therefore not entitled to purchase military service credit under the contributory retirement law.

Mr. Coleman advances thoughtful and challenging arguments. Regardless of whether he is correct, members' arguments that they have been treated unequally vis-à-vis their peers are constitutional in substance, cannot be entertained by an administrative tribunal, and belong in the Superior Court. *See Sarno v. Massachusetts Teachers' Ret. Sys.*, CR-07-253, at *6-7 (DALA Oct. 29, 2010); *Racow v. Winthrop Ret. Bd.*, CR-20-492, at *3-4 (DALA Mar. 25, 2022). To the extent that Mr. Coleman's arguments also draw on equitable principles, DALA is likewise powerless to grant relief. The appellate courts and administrative decisions have held that "equitable" considerations cannot overcome the commands of applicable statutes and regulations. *See, e.g., Clothier v. Teachers' Ret Bd.*, 78 Mass. App. Ct. 143, 146 (2010); *Bristol Cty. Ret. Bd. v. Contributory Ret. Appeal Bd.*, 65 Mass. App. Ct. 443, 451-52 (2006); *Reed v. Essex Reg'l Ret. Bd.*, CR-20-124, at *11 (DALA July 2, 2021); *Walsh v. Massachusetts Teachers' Ret. Sys.*, CR-06-269, at *8 (DALA Mar. 19, 2010).

For the above-stated reasons, Mr. Coleman's appeal is hereby DISMISSED.

Dated: October 10, 2025

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate
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Notice sent to: Rory Coleman
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