

SEP 11 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 95-00926

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His Zone A, Multiple One, Selective Reenlistment Bonus (SRB) which was recouped on or about 17 March 1993 be reinstated and that he be reimbursed for the additional \$400.00 he was required to pay back in conjunction with the recoupment.

APPLICANT CONTENDS THAT:

He has no idea how the AFSC in which he reenlisted and received a SRB was removed. When he was going through the process of applying for retraining, the person who was helping him at his local military personnel flight (MPF) was new at the job and not quite sure how to reclassify him into the Pararescue career field. This may have been the cause for the removal of his original AFSC.

In support of his request, applicant submits documents associated with the issues cited in his contentions. These documents are appended at Exhibit A.

STATEMENT OF FACTS:

Applicant contracted his initial enlistment in the Regular Air Force on 2 November 1989. He is currently on active duty in the grade of airman basic (E-1), with the effective date and date of rank of 9 March 1998.

The applicant reenlisted on 12 February 1993 for a period of four years in the Control Air Force Specialty Code (CAFSC) of 36151.

The relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letters prepared by the appropriate offices of the Air Force. Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR STAFF EVALUATION:

The BCMR/Special Actions Section, AFMPC/DPMAPE, stated that the applicant was a first term airman who applied for a Career Job Reservation (CJR) in AFSC **361X1** on 10 Dec 92. His CJR was approved shortly thereafter with a 12 Feb 93 expiration date. He also had applied for CAREERS retraining during this same timeframe. The applicant reenlisted in AFSC 361X1 on 12 Feb 93 and received a Zone A, Multiple One, SRB. It appears since he had not received a response on his retraining application, he elected to reenlist in AFSC **361X1** rather than allow his CJR to expire and risk disapproval of his retraining application. Had the applicant allowed his CJR to expire and if his retraining application had been disapproved, he would have had to separate on 1 November 1993. Based on input from the Retraining Section at AFMPC, the applicant received approved CAREERS retraining into AFSC **115X0** (which was authorized a Zone A, Multiple One-Half SRB) on 4 February 1993, prior to his reenlistment in AFSC **361X1**. However, it appears both the applicant and CBPO personnel were unaware of the approved retraining. A review of the AF Form 901 (Reenlistment Eligibility Annex to DD Form 4) does not reflect the reenlistment guarantees normally associated with approved CAREERS retraining. The applicant was allowed to continue his CAREERS retraining into AFSC **115X0** even though he had already reenlisted in AFSC **361X1**. As a result of his reenlistment, his category of enlistment was changed to reflect he was a second term airman. Normally, CAREERS retraining is reserved for first term airmen. On or about 17 March 1993, the applicant's Zone A, Multiple One, SRB was recouped. Since the SRB recoupment took place at a base which has since been closed, it is difficult to determine for certain who directed the recoupment and why the action was taken. The applicant states he was advised by his previous supervisor, that the SRB was recouped as he would no longer be working in the SRB AFSC due to his retraining. He claims unit personnel at his next station informed him his SRB was wrongfully recouped which generated his request for reinstatement of the SRB.

DPMAPE stated that there were some Personnel Data System (PDS) update irregularities in the applicant's case. The applicant did not reenlist to qualify for retraining but instead reenlisted in his previous AFSC (361X1) with a normal approved CJR. The applicant's previous AFSC (**361X1**) was removed from the PDS and the retraining AFSC (**115X0**) loaded shortly after his retraining was confirmed. This was not the correct update. The Classification Office at AFMPC directed that the be PDS corrected to reflect the original AFSC (**361X1**). The most significant irregularity occurred when the Retraining Section, AFMPC, updated an SRB waiver code in the PDS. It was initially updated to reflect the applicant had retrained into an equal or greater SRB AFSC. This is not what occurred in the applicant's case. As information, SRB waiver codes are updated to facilitate retraining or assignment into an AFSC other than the SRB AFSC. SRB waiver codes are normally approved in cases were the Air

Force has determined there is a more immediate need for individuals in another AFSC other than their SRB AFSC. Accordingly, if approved for an SRB waiver, the individual would continue to receive SRB payments from the previous reenlistment.

DPMape recommended denial of the applicant's request to have the recouped SRB reinstated. It appears the recoupment action was based on Air Force policy in effect at the time of the applicant's reenlistment. According to the policy, individuals who reenlisted to qualify for the retraining and when they retrained from an AFSC with a higher SRB into an AFSC with a lower SRB, they were not entitled to an SRB. Based on this policy, it appears corrective action to recoup his SRB was taken shortly after the applicant reenlisted. This was a valid action since the applicant was not entitled to the SRB. In July 1994, the policy was changed to allow applicants retraining from a higher SRB to a lower SRB AFSC to receive the lower SRB.

DPMape indicated that if the Board believes the applicant's situation warrants relief, the Board could grant him a Zone A, Multiple One-Half, SRB in conjunction with his four-year, 12 February 1993 reenlistment, with obligated service through 1 November 1993 (Exhibit C).

The Claims Section, DFAS-DE/FYDEC, stated that the applicant is requesting reimbursement for an additional \$400.00 he alleges he was required to pay back in conjunction with a Selective Reenlistment Bonus (SRB) recoupment. The gross amount of the applicant's SRB on 12 February 1993 was \$1,830.07. The Federal Income Tax Withheld (FITW) was \$366.01; therefore, the net amount received by the applicant was \$1,464.06. When the applicant's Air Force Specialty Code (AFSC) changed, the SRB was recouped in the amount of \$1,830.07 and the FITW wages were reduced by that amount. The FITW deduction of \$366.01 was probably refunded to the applicant when he filed his 1993 income tax return. Since the amount recouped equals the gross amount of SRB, there has not been an error. FYDEC concurs with the denial recommendation of AFMPC/DPMape (Exhibit D).

Through further research with DFAS-DE/FYDEC, the following information was provided: (FITW - Federal Income Tax Withheld)

<u>Date</u> <u>1993</u>	<u>SRB</u>	<u>FITW-SRB</u>	<u>Recouped</u>	<u>FITW</u>
Jan				\$ 32.63
Feb	\$1830.07	\$366.01		398.64
Mar-Apr				65.26
May-Oct			\$1830.07	-0-
Nov-Dec				<u>90.92</u>
Total-Year				\$507.45

From May through Oct (6 months), the applicant repaid the SRB debt in the amount of \$305.01 a month for a total of \$1830.07.

During this six month period, zero (0) federal income tax was withheld. Applicant's normal rate of FITW during this period would have been $\$32.63 \times 6 = \195.78 . FITW-SRB was $\$366.01 - 195.78$ (adjustment) = $\$170.23$ unrecovered until he filed his tax return (1040) with the Internal Revenue Service (IRS).

The applicant's total amount of FITW for the year was \$587.45, this amount included the SRB tax withheld and was reflected on his W-2 for the tax year 1993 (the \$366.01 FITW-SRB is not listed as a separate entity on the W-2). DFAS indicated that since the applicant's SRB was not calculated into his year-end wages, the unrecovered FITW would have been recovered when he filed his 1993 Federal Income Tax Return with the IRS.

DFAS indicated that when the applicant was initially issued the SRB in Feb 93, the FITW was transferred quarterly to the IRS. Since the money was sent to another agency, any adjustment would be made through that agency (IRS) and not the Air Force.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to applicant on 10 July 1995 for review and response. As of this date, no response has been received by this office (Exhibit E).

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinions and recommendations of the respective Air Force offices and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. In this respect, it was noted that the Selective Reenlistment Bonus (SRB) recoupment action was based on Air Force policy in effect at the time of the applicant's reenlistment and, due to this policy, he was not entitled to the SRB. Therefore, absent sufficient evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of probable 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 this application in Executive Session on 9 July 1998, under the provisions of AFI 36-2603:

Mr. Thomas S. Markiewicz, Panel Chair
Mr. Jackson A. Hauslein, Member
Mr. Michael P. Higgins, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 7 Mar 95, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFMPC/DPMAPE, dated 17 May 95.
- Exhibit D. Letter, DFAS-DE/FYDEC, dated 14 Jun 95
- Exhibit E. Letter, SAF/MIBR, dated 10 Jul 95.



THOMAS S. MARKIEWICZ
Panel Chair