



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUN 30 1998

Office of the Assistant Secretary

AFBCMR 97-03509

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected by adding six (6) days of annual leave to her leave account commencing 2 October 1997.

A handwritten signature in cursive script, appearing to read "Joe G. Lineberger".

JOE G. LINEBERGER

Director
Air Force Review Boards Agency

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-03509

[REDACTED]
COUNSEL: NONE

[REDACTED]
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

Six (6) days of leave lost at FY97 year-end balancing be restored.

APPLICANT CONTENDS THAT:

Early childbirth on 6 September and convalescent leave precluded her from taking planned leave.

In support of her request, the applicant submits a copy of her Leave and Earnings Statement (LES) (Exhibit A).

STATEMENT OF FACTS:

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

AIR FORCE EVALUATION:

The Chief, Commanders' Programs Branch, HQ AFPC/DPSFC reviewed this application and recommended denial. DPSFC stated that the applicant had 60 days on 1 October 1996, used 24 days, and had 66 days on 30 September 1997. She lost 6 days on 1 October 1997 because members cannot carry over more than 60 days into the next fiscal year. DPSFC stated that the applicant gambled there would not be circumstances (early childbirth) to prevent her from taking leave in September. Although unable to take 6 days of annual leave in September, DPSFC indicated that the applicant received full financial benefits while on convalescent leave, a nonchargeable leave status. DPSFC cannot find the Air Force culpable since military necessity did not preclude applicant from taking leave (Exhibit C).

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to applicant on 22 December 1997 for review and response. 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 not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
 3. Sufficient relevant evidence has been presented to demonstrate the existence of probable injustice. It was noted that the applicant intended to use the leave prior to 15 September 1997; however, due to the early birth of her son, she was unable to take the scheduled leave. Inasmuch as the applicant was not able to use her leave due to circumstances beyond her control, the Board majority does not believe she should be penalized for it. In view of the foregoing, the Board majority believes it would be unjust for the applicant to lose the cited leave. The Board majority therefore recommends that the applicant's records be corrected to show that six (6) days of leave were restored to her current leave account.
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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected by adding six (6) days of annual leave to her leave account commencing 2 October 1997.

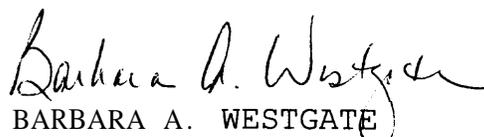
The following members of the Board considered this application in Executive Session on 19 March 1998, under the provisions of AFI 36-2603:

Mrs. Barbara A. Westgate, Panel Chair
Mr. Gregory H. Petkoff, Member
Mr. Robert W. Zook, Member

By a majority vote, the Board recommended granting the relief sought in this application. Mr. Zook voted to deny the applicant's request but did not desire to submit a minority report. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 18 Nov 97, w/atck.
- Exhibit B. Applicant's Master Personnel Records.

Exhibit C. Letter, HQ AFPC/DPSFC, dated 16 Dec 97.
Exhibit D. Letter, SAF/MIBR, dated 22 Dec 97.


BARBARA A. WESTGATE
Panel Chair



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

16 DEC 1997

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPSFC
550 C Street West, Ste 37
Randolph AFB TX 781504739

SUBJECT: Application for Correction of Military Records [REDACTED]

Requested Action and Basis for Request. Restore 6 days lost at FY97 yearend balancing. Applicant states that early childbirth prevented taking planned leave.

Facts and Discussion. Applicant had 60 days on 1 Oct 96, used 24 days, and had 66 days on 30 Sep 97. She lost 6 days on 1 Oct 97 because members cannot carry over more than 60 days into the next FY (10 U.S.C. 701(b)). Applicant states she planned to take 6 days' leave immediately before her due date to prepare for the baby's arrival on 15 Sep. She states early childbirth on 6 Sep and convalescent leave precluded taking leave. However, these are not valid reasons to carry over leave in excess of 60 days. Under 10 U.S.C. 704(b)(3), members are to take leave as accruing to the extent consistent with military requirements. Members, however, often accumulate the maximum 60 days allowed and take only the 30 days accrued during the current FY. When they do so, they risk losing days if unable to take leave in Sep due to unforeseen circumstances. The applicant gambled there would not be circumstances (early childbirth) to prevent her from taking leave in Sep. Although unable to take 6 days of annual leave in Sep, applicant received full financial benefits while on convalescent leave, a non-chargeable leave status. In this case, we cannot find the Air Force culpable since military necessity did not preclude applicant from taking leave.

Recommendation. **Deny.** If AFBCMR decides to grant relief, restore 6 days to current leave account.

William F. Nadolski
WILLIAM F. NADOLSKI, Major, USAF
Chief, Commanders' Programs Branch

cc:
SAF/MIBR

EX-101