



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

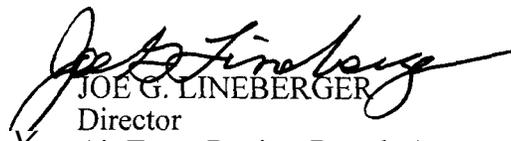
OCT 27 1998

Office of the Assistant Secretary  
AFBCMR 98-00086

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 to show that nine (9) days of leave were added to his current leave account.

  
JOE G. LINEBERGER  
Director  
Air Force Review Boards Agency

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

OCT 27 1998

IN THE MATTER OF:

DOCKET NUMBER: 98-00086

COUNSEL: None

HEARING DESIRED: No

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APPLICANT REQUESTS THAT:

Nine (9) days of leave lost in Fiscal Year 1997 (FY97) be reinstated.

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APPLICANT CONTENDS THAT:

He lost 9 days of leave because of a disapproved retirement application. He applied for retirement in Jul 97. In Sep 97, he had 9 days to take; however, he informed his commander that he would not take all the leave in Sep and only work in Oct then be gone in Nov. On 3 Oct 97, his request for retirement was turned down. The Air Force Personnel Center (AFPC) had known for 2 months; however, the word was slow getting to him. Had he been notified on time, he would have taken the leave.

In support of his appeal, the applicant submitted a letter signed by his squadron and group commanders and a copy of his Military Leave and Earnings Statement.

Applicant's complete submission is attached at Exhibit A.

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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.

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AIR FORCE EVALUATION:

The Chief, Commanders' Programs Branch, AFPC/DPSFC, reviewed this application and indicated that the applicant had 60 days of leave on 1 Oct 96. He used 21 days of leave and had 69 days on 30 Sep 97. He lost 9 days of leave on 1 Oct 97 because Section 701, Title 10, United States Code (USC), precludes members from carrying over more than 60 days into the next FY. While applicant contends that he would have taken the 9 days if he had known earlier of the retirement disapproval, this is not a valid reason to carry over more than 60 days of leave into the next FY. Section 701, Title 10, USC, requires members to take leave annually as accruing to the extent consistent with military requirements. When members plan to take terminal leave starting in Nov, they must take all accrued days in excess of 60 days before 1 Oct. In this case, DPSFC cannot find the Air Force culpable because military necessity was not the cause for the lost leave. They recommend denial of applicant's request.

A complete copy of the Air Force evaluation is attached at Exhibit B.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant reviewed the Air Force evaluation and indicated that, at no point in his request did he state that the leave was to be used for terminal leave. He had plenty of terminal leave available and he was aware of the 60-day limit for roll-over from FY to FY. His main point is that AFPC related to him on 3 Oct 97 that they knew approximately 2 months earlier that his retirement request was going to be disapproved and had he been notified in a timely manner, he would have had ample time to take his leave prior to 30 Sep 97. He did not take the leave because he was supposed to start his terminal leave on 1 Nov 97 and he did not want to be gone for 9 days in Sep, work Oct, and then be gone for good in Nov. He did this in the best interest of his unit. With AFPC notifying him only 28 days prior to starting his terminal leave, but being aware of the decision to deny his retirement request 2 months earlier, he does not feel that he should be made to suffer this loss. At his current grade, and including his entitlements, 9 days of leave are worth \$859.88 and this is a substantial loss for trying to do the right thing.

Applicant's complete response is attached at Exhibit D.

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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 probable error or injustice. The applicant has provided a statement from his commander and indorsed by his group commander indicating that he applied for retirement to be effective 1 Feb 98 and for his terminal leave to start on 3 Nov 97. He did not take the contested leave in the month of Sep with the best intentions for the squadron knowing that as of 3 Nov 97, he would be gone for good. However, within 30 days of his scheduled terminal leave, his retirement was disapproved by AFPC. We note that AFPC knew approximately 2 months earlier that his retirement was not going to be approved; however, the applicant was not notified of the disapproval until 28 days prior to starting his terminal leave and did not have ample time to take his leave prior to 30 Sep 97. It was adequately demonstrated that the applicant tried to schedule his leave judiciously. Contrary to the Air Force evaluation which suggests the applicant gambled that there would be no contingencies to preclude taking leave by the end-of-year leave balancing, we find that the applicant tried to schedule his leave diligently during the time that would have been available to him but was not notified in a timely manner that his retirement was disapproved. Absent evidence to the contrary, we find in the applicant's favor and recommend that 9 days of leave be restored to his 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 to show that nine (9) days of leave were added to his current leave account.

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The following members of the Board considered this application in Executive Session on 8 October 1998, under the provisions of AFI 36-2603:

Ms. Charlene M. Bradley, Panel Chair  
Ms. Patricia D. Vestal, Member  
Mr. Joseph G. Diamond, Member  
Mrs. Joyce Earley, Examiner (without vote)

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 5 Jan 98, w/atchs.
- Exhibit B. Letter, AFPC/DPSFC, dated 21 Jan 98.
- Exhibit C. Letter, AFBCMR, dated 2 Feb 98.
- Exhibit D. Letter fr applicant, undated.

  
CHARLENE M. BRADLEY  
BRADLEY

Panel Chair

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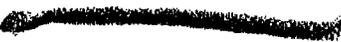


DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE TEXAS

21 JAN 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPSFC  
550 C Street West, Ste 37  
Randolph AFB TX 78150-4739

SUBJECT: Application for Correction of Military Records 

Requested Action and Basis for Request. Reinstate 9 days lost at FY97 year-end balancing. Applicant states he lost these days because of a disapproved retirement application.

Facts and Discussion. Applicant had 60 days 1 Oct 96, used 21 days, and had 69 days on 30 Sep 97. He lost 9 days on 1 Oct because Title 10 USC 701 precludes members from carrying over more than 60 days into the next FY. He states he did not take the 9 days in Sep because he was planning to take them as terminal leave starting in Nov in conjunction with retirement. AFPC disapproved his retirement application on 3 Oct and applicant states he would have taken the 9 days if he had know earlier of the disapproval. However, this is not a valid reason to carry over more than 60 days into the next FY. Title 10 USC 704 requires members to take leave annually as accruing to the extent consistent with military requirements. When members plan to take terminal leave starting in Nov, they must take all accrued days in excess of 60 days before 1 Oct. In this case, we cannot find the Air Force culpable because military necessity was not the cause for the lost leave.

Recommendation. Deny because 60 days are the maximum number of days members can carry over into the next FY under Title 10 USC 701. If the AFBCMR decides to grant relief, restore 9 days to current leave account.

11 SIGNED 11  
Chief, Commanders' Programs Branch

  
9800086