RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2010-00173

XXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

Thirty-three days of leave be restored to her leave account.

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APPLICANT CONTENDS THAT:

The South Dakota Air National Guard (ANG) required full-time Active Guard/Reserve (AGR) members to take leave on non-duty days when not away from home. This leave policy was enforced for many years as a means to bring parity between the Title 5 Technician and AGR leave programs. The South Dakota ANG required AGR personnel to sign away non-duty days, whether out of the local area or not. She believes that she lost a total of 43 days of leave due to this policy. She was credited with ten days of leave when this program was terminated and is requesting the remaining 33 days be credited to her leave account.

In support of her request, the applicant provides copies of her AF Forms 988, *Leave Request/Authorization,* various pieces of correspondence related to the matter under review, as well as AGR annual leave summaries.

Applicant’s complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

Information extracted from the Military Personnel Data System (MilPDS) indicates the applicant enlisted in the South Dakota ANG on 26 Oct 82 and was progressively promoted to the grade of master sergeant (E-7), effective and with a date of rank of 1 Mar 03.

On 31 Jan 07, she was relieved from the AGR program and retired for length of service on 1 Feb 07.

The remaining relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air Force, which is attached at Exhibit C.

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AIR FORCE EVALUATION:

NGB/A1PS recommends partial relief, indicating the evidence provided by the applicant supports her contention she was improperly required to take leave during non-duty days. NGB/A1PS reviewed the evidence provided and concurs with restoring 32 days of leave to her leave account. This figure is based on the forty-three days claimed by the applicant, less one day for 23 Jan 97 as it fell on a regular duty day, less the ten days the applicant states were returned in 1999.

The complete NGB/A1PS evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 26 Feb 10 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit C).

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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 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 an error or injustice warranting corrective action. After thorough review of the applicant’s complete submission and the evidence of record, we agree with the NGB/A1PS evaluation indicating the applicant was improperly required to take leave during non-duty days and should be credited for such leave. We note their recommendation to credit the applicant with 32 days of leave. Nonetheless, we believe the evidence provided, supports credit for 33 days as she has requested. Therefore, we recommend her records be corrected to the extent indicated below.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force related to the APPLICANT be corrected to show that:

a.  Twenty-five and one half (25.5) days of leave were added to her leave account commencing 31 January 2007 and at the time of her retirement from the Active Guard/Reserve (AGR) program on 1 February 2007, she was authorized to receive cash settlement for an additional 25.5 days of unused accrued annual leave.

b.  She was in a temporary duty status for seven and one half (7.5) days beginning 1 February 2007 and was paid total perdiem in an amount equal to 7.5 days of basic pay.

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The following members of the Board considered AFBCMR Docket Number BC-2010-00173 in Executive Session on 1 Sep 10, under the provisions of AFI 36-2603:

Ms. XXXXXXXXXX, Panel Chair

Mr. XXXXXXXXXX, Member

Ms. XXXXXXXXXX, Member

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

Exhibit A.  DD Form 149, dated 12 Jan 10, w/atchs.

Exhibit B.  Applicant’s Master Personnel Records.

Exhibit B.  Letter, NGB/A1PS, dated 11 Feb 10, w/atch.

Exhibit C.  Letter, SAF/MRBR, dated 26 Feb 10.

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Panel Chair