RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2016-00461

 COUNSEL:

 HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

She receive compensation for 60 days of leave she attempted to sell in conjunction with her separation.

APPLICANT CONTENDS THAT:

She submitted an AF Form 1089, *Leave Settlement Option*, to sell back 60 days of leave upon separation, however, her finance office neglected to inform her she was not able to sell the 60 days of leave. Had she known that, she would have taken the leave prior to her separation date. Now, she has separated and cannot get the $5,239.18 which is due her.

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

STATEMENT OF FACTS:

The applicant initially entered the Regular Air Force on 7 May 97.

On 18 Aug 14 the Physical Evaluation Board (PEB) directed the applicant receive a disability separation. According to the Disability Retirement Date Calculator used by the Physical Disability Office at AFPC, she was credited with 141 total days of unsellable leave, permissive TDY, and out processing, and was properly compensated for the period of time between 18 Aug 14 and her established date of separation of 18 Dec 14.

On 28 Dec 14, the applicant was furnished an honorable discharge, with a narrative reason for separation of “Disability Severance Pay Non-Combat, Enhanced,” and was credited with 17 years, 7 months, and 28 days of active service.

The remaining relevant facts pertaining to this application are contained in the memorandum prepared by the Air Force office of primary responsibility (OPR), which is attached at Exhibit C.

AIR FORCE EVALUATION:

AFPC/DP2SSM recommends denial indicating there is no evidence of an error or an injustice. In accordance with AFI 36-3003, *Military Leave Program*, paragraph 4.6., *Payment for Accrued Leave*, Title 37, United States Code (USC) § 501 is the authority for payment for accrued leave upon reenlistment, retirement, separation under honorable conditions, or death. It limits payment of accrued leave to 60 days in a military career effective 10 Feb 76. A military career includes former service in enlisted or officer status. Cumulative payment for accrued leave as an enlisted member, officer, or both cannot exceed 60 days. DoD 7000.14-R, Volume 7A, *Department of Defense Financial Management Regulation (Military Pay Policy and Procedures Active Duty and Reserve Pay*), paragraph 4.7. *Disability Separation,* states:

“4.7.1. DoD Guidelines. DoD processing requirements require members to receive payment for up to 60 days accrued leave and afford them time to take any accrued leave in excess of this 60-day limit.

 4.7.2. Determining Retirement or Separation Date. HQ AFPC/DPSD (Physical Disability Division) determines a member’s separation date, taking into account:

 4.7.2.1. Leave balance and leave accruing in excess of the 60-day accrued leave payment limitation for members authorized payment for up to 60 days of accrued leave.

 4.7.2.2. Accrued leave and leave accruing to the date of separation for members previously paid for 60 days.”

The applicant sold 60 days of leave through previous reenlistments/extensions. We recommend denying relief sought by member, as the AFI and DoD guidance states members cannot sell more than 60 days of leave. The applicant sold leave in 2003 and 2009 according to the Master Military Pay Record. The applicant did not provide any evidence from the finance office or military personnel section stating that it was a mistake on their part regarding miscounseling on selling leave.

A complete copy of the AFPC/DP2SSM evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 7 Sep 16 for review and comment within 30 days (Exhibit D). As of this date, no response has been received by this office.

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 an error or injustice. We took notice of the applicant’s complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of AFPC/DP2SSM and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the requested relief.

THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and 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 AFBCMR Docket Number BC-2016-00461 in Executive Session on 21 Mar 17 under the provisions of AFI 36-2603:

 Panel Chair

 Member

 Member

The following documentary evidence was considered:

 Exhibit A.  DD Form 149, dated 29 Jan 16, w/atchs.

 Exhibit B.  Applicant's Master Personnel Records.

 Exhibit C.  Memorandum, AFPC/DP2SSM, dated 5 May 16.

 Exhibit D.  Letter, SAF/MRBR, dated 7 Sep 16.

Pursuant to paragraph 1 of AFI 36-2603 (Title 32 Code of Federal Regulations, Part 865.1), it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.