

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00638

XXXXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Eighteen (18) days of lost leave be restored and he be permitted to sell his leave.

APPLICANT'S CONTENTIONS

He did not qualify for special leave accrual (SLA). However, he lost 18 days of leave due to conflicting guidance and lack of feedback during his transition and promotion from active duty to the Air Force Reserve.

In Jul 21, he was selected for an active duty promotion to the rank of colonel (O-6). In Feb 22, he was approved for a Palace Front transfer from the Regular Air Force to the Air Force Reserve. He requested and was approved for his transfer to be upon his active duty promotion to colonel on 1 Nov 22. He started terminal leave on 25 Jul 22, with 115 days of terminal leave. He was to transition to his new Reserve unit on 16 Nov 22.

On 25 Jul 22, he started terminal leave and began his new job with the airline, which requires military members to be on terminal leave before starting work. On 29 Jul 22, four days into his terminal leave, he received a call from the Air Force Reserve Center (AFRC) that they had failed to submit his name for the O-6 scroll and requested he extend his terminal leave; however, he did not have additional leave. On 14 Oct 22, his original terminal leave was canceled, he continued to fly with his active duty wing in Jul and Aug and his time flying with the airline was charged as regular leave and deducted from his terminal leave. As a result, AF/DPO concurred with moving his separation date. On 13 Dec 22, he separated from the Regular Air Force and on 14 Dec 22, upon confirmation of his scroll, he joined the Air Force Reserve. As a result, he lost 18 days of leave. While his terminal leave included use or lose leave, the leave was lost as a result of AFRC's failure to timely initiate the scroll process.

In support of his request, he provides case management system (CMS) request dated 20 Jul 22, staff summary sheet dated 16 Aug 22 requesting an expedited scroll, email thread dated 14 Oct 22 and AF Form IMT 1288, *Application for Reserve Assignment*, dated 28 Jun 22.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a colonel (O-6) in the Air Force Reserve.

The applicant served a period of active duty in the Regular Air Force from 27 May 98 to 13 Dec 22 and was honorably released from active duty in the rank of colonel. He was credited with 24 years, 6 months, and 17 days of active duty service.

On 14 Dec 22, the applicant was appointed in the Air Force Reserve in the rank of colonel.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

APPLICABLE AUTHORITY/GUIDANCE

DAFI 36-3003, *Military Leave Program* Paragraph 5.9, Members not eligible for SLA for the reasons listed can request recovery of days lost by submitting a DD Form 149, *Application for Correction of Military Record*. If the Board restores leave to current leave account, members must use these days before the end of the current Fiscal Year (FY).

AIR FORCE EVALUATION

AFPC/DPMSSM recommends approval. Although DAFI 36-3003 does not allow SLA under the applicant's circumstances, the applicant has provided documentation to show he was miscounseled by his finance office and AFRC. The lost leave was not due to the applicant's negligence. Should the Board elect to grant the request, the applicant's record should be corrected to restore 18 days of leave that should be retained until the end of the second FY following the FY in which SLA was lost.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 4 May 23 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPMSSM and finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes the applicant's circumstances do not allow SLA; however, he has provided sufficient evidence to show his lost leave was due to miscounseling by his unit and AFRC and not due to his own negligence. Therefore, in the interest of justice, the Board recommends correcting the applicant's records as indicated below.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show 18 days of leave be restored commencing 2 Oct 23.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-00638 in Executive Session on 15 Jun 23:

, Panel Chair
, Panel Member
, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 1 Mar 23.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory opinion, AFPC/DPMSSM, dated 24 Apr 23.
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 4 May 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

X

Board Operations Manager, AFBCMR