



CUI//SP-MIL/SP-PRVCY

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-02427

Work-Product

(DECEASED)

COUNSEL: NONE

Work-Product

(APPLICANT)

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her deceased father's WD-AGO 53-55, *Honorable Discharge*, Item 3, *Grade*, be amended to reflect staff sergeant rather than private.

APPLICANT'S CONTENTIONS

According to family history, her deceased father went absent without leave (AWOL) to attend his mother's funeral. The family assumes Block 55, *Remarks*, which reflects "21 days lost under AW 107 [Articles of War, Section 107]" was the basis for his reduction from the rank of staff sergeant to private. His military records could not be obtained due to a 1973 fire at the National Personnel Records Center in St. Louis, MO.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The decedent was a former Army/Air Force private (E-1).

On 5 January 1942, according to WD-AGO 53-55, the decedent entered active duty. On 6 September 1945, he was honorably discharged in the grade of E-1. He was credited with 1 year, 6 months, and 1 day of continental service and 2 years, 1 month, and 10 days of foreign service. Item 38, *Highest Grade Held*, reflects "S/Sgt." The narrative reason for separation reflects "Convenience of Government (Demobilization)." Item 55, *Remarks*, reflects "21 Days lost under AW 107."

On 18 October 1985, according to a certified death certificate, provided by the applicant, the former service member passed away.

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

AIR FORCE EVALUATION

AFPC/DP2 recommends denying the application. Based on the documentation provided and analysis of the facts, there is no evidence of an error or injustice. The decedent held the rank of staff sergeant (E-5); however, his separation document shows he was demoted to private/E-1. There is no demotion documentation other than the statement on the separation document, which states 21 days lost under AW 107. The document provided by the applicant states the decedent went AWOL to attend his mother's funeral.

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Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

The applicant's family was unable to provide complete military records as they were lost to a fire in 1973. There are no records of the infraction or reason for the disciplinary action. In addition, there is no documentation in the applicant's record reflecting he should have maintained the rank of staff sergeant.

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 15 November 2022, for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not 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 not the victim of an error or injustice. Based on a review of the decedent's limited records and evidence provided by the applicant, the Board determined the applicant's rank at the time of his separation is correctly annotated on WD AGO 53-55. Accordingly, the Board concurs with the rationale and recommendation of AFPC/DP2 and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's deceased father's records.
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 Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2021-02427 in Executive Session on 4 May 2023:

 *Work-Product*, Chair, AFBCMR
 *Work-Product*, Panel Member
 *Work-Product*, Panel Member

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All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 3 November 2020.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFPC/DP2, dated 14 November 2022.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 15 November 2022.

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.

8/7/2023

X

Work-Product

Board Operations Manager, AFBCMR

Signed by:

Work-Product