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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03069-2

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider his request to have 45 days of lost leave restored.

RESUME OF THE CASE

The applicant is an Air National Guard lieutenant colonel (O-5).

On 1 Feb 22, the Board considered and denied his request to have 45 days of lost leave restored. When the applicant transferred from the Active Duty component to the Reserve component on 12 Dec 19 he requested that his 45 days of leave be transferred from his active component (AC) account to his Reserve component (RC) account; however, his separation paperwork was not processed in a timely manner and he continued to receive pay and benefits through 31 Jan 20. As such, the applicant was overpaid for time he was no longer serving on active duty and was issued a debt and the separation code associated with the applicant's transfer from AC to RC authorized the pay system to automatically calculate a leave sell payment to offset a portion of the debt incurred. As such, the Board concurred with SAF/FMSI and found that once the applicant paid the debt, he received from overpayment then the 45 days of leave would be restored to his pay record. Therefore, to prevent a windfall to the applicant the Board denied the applicant's request and believed his leave record would be administratively corrected to restore the lost leave.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit E.

On 30 Jan 24, the applicant requested reconsideration of his request to have his leave restored indicating he has paid off the debts, but the Defense Finance and Accounting Service (DFAS) is requiring him to submit another application to the AFBCMR in order reinstate the lost leave. As such he is requesting that DFAS be directed to reinstate the leave and issue a corrected IRS Form W-2, *Wage and Tax Statement* based on the repaid leave.

The applicant's complete submission is at Exhibit F.

AIR FORCE EVALUATION

SAF/FMFC-F recommends granting the application. The applicant was due to separate from the AC and transition to the Air Force Reserve component on 12 Dec 19. The Military Personnel Flight (MPF) did not process the separation transaction timely. The separation transaction did not process until 26 Feb 20 for a separation date of 12 Dec 19. Since the AC pay record was not separated until Feb 20, the applicant was paid his normal pay and allowances through Jan 20.

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Therefore, he was overpaid pay and allowances from 13 Dec 19 through 31 Jan 20. This resulted in him being overpaid approximately \$17K in pay and allowances.

When a separation transaction is processed, if the separation code authorizes leave to be sold, the AC pay system automatically calculates a leave sell payment authorization for the member's leave balance. The applicant had 45 days of leave as of 12 Dec 19 which was automatically sold in the amount of \$10,854.00. All one-time payments are taxed at 22 percent, which resulted in \$2,387.88 automatically sent to the IRS on the applicant's behalf and \$8,466.12 was added to the calculation of the applicant's final active-duty paycheck. This payment of \$8,466.12 for the leave sell was applied to offset a portion of the debt along with a refund of the Jan 20 Federal Taxes and Social Security taxes that were withheld from his paycheck and the applicant separated in debt for \$6,854.96.

When the applicant came back to Active Duty in the AC pay system in Jan 21, two debts for \$9,999.99 and \$854.01 were posted to his pay record to collect back the 45 days of leave sell for \$10,854.00 that was paid upon separation in Dec 19. The \$854.01 debt was paid off in Sep 21 and the \$9,999.99 debt was paid off in Oct 22. At this time, the 45 days of leave should have been posted to his pay record, but they were not. The finance office was not aware the debt was for repayment of leave sold at a prior separation.

If the 45 days of leave are added to his Jun 24 leave balance of 49 days, that will put the leave balance at 94 days. The applicant will earn another 7.5 days of leave for the months of Jul-Sep 24, putting his projected balance at 101.5 days. Effective 1 Oct 24, he can only carry over a leave balance of 60 days. He would have to use 41.5 days of leave between Jul and 30 Sept 24, or he would lose any leave over 60 days.

Therefore, SAF/FMFC-F recommends the 45 days of leave be administratively restored to his leave record as soon as possible, to allow the leave days to be made available to the applicant. They further recommend the applicant be authorized Special Leave Accrual to allow for the leave days over 60 to be carried forward with an expiration date of 30 Sep 25. The applicant will need to use the additional leave days between Jul 24 and Sep 25. If the applicant separates from the service, he will have the option to sell the leave days, with the understanding that only 60 days of leave can be sold in a career IAW statutory limits.

The complete advisory opinion is at Exhibit H.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 3 Jul 24 for comment (Exhibit I) 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 SAF/FMFC-F and finds a preponderance of the evidence substantiates the applicant's contentions. Furthermore, given the passage of time, the Board finds it prudent to allow a Special Leave Accrual for the leave days over 60 days to be carried forward with an expiration date of 30 Sep 25. In regards, to the

applicant's request for DFAS to issue the applicant a corrected IRS Form W-2, *Wage and Tax Statement*, the Board notes this is outside of their purview and the applicant must petition DFAS for the corrected form. Therefore, 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:

a) Forty-Five (45) days of lost leave be restored to his current leave account.

b) He be authorized Special Leave Accrual for any leave days over 60 to be carried forward with an expiration date of 30 September 2025.

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-2021-03069-2 in Executive Session on 11 Mar 25:

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

Exhibit E: Record of Proceedings, w/ Exhibits A-D, dated 1 Feb 22.

Exhibit F: Application, DD Form 149, w/atchs, dated 30 Jan 24.

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

Exhibit H: Advisory Opinion, SAF/FMFC-F, dated 2 Jul 24.

Exhibit I: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Jul 24.

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.

3/28/2025

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