

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01180

XXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. Approve amended AF Forms 988, *Leave Request/Authorization*
2. Remove negative leave balance of 5.5 days for 2 Oct 19 – 31 Dec 19
3. Refund debt paid on 28 Jan 22, in the amount of \$2,189.84

APPLICANT'S CONTENTIONS

He earned the leave in question while deployed, and if he had been advised to do so, he could have used his Permissive Temporary Duty (TDY) and terminal leave differently to accomplish the intent of his original leave plan without taking 5.5 days of excess leave. On 24 Jun 18, he started a 375-day TDY in support of Operation FREEDOM'S SENTINEL. Based on the amount of leave he had already accumulated when he started the deployment, he knew he would eventually have to submit a Special Leave Accrual (SLA) request to restore excess "use or lose" leave.

While deployed, his retirement request was approved. Upon return from deployment, he completed his *Finance Retirement/Separation Checklist* with the [Base] Finance Office Reviewer on 12 Aug 19. Based upon his accumulated leave, the reviewer approved his plan for Permissive TDY from 11 Sep 19 – 30 Sep 19, and terminal leave from 2 Oct 19 – 31 Dec 19. Both leave requests had been approved by his chain of command in LeaveWeb. Later, on 12 Aug 19, he submitted his SLA request for restoration of 32.5 days of annual leave that would be lost at the end of the fiscal year.

On 1 Oct 19, he completed his final out-processing. When he asked about the status of his SLA request, he was told it was still being processed, should be approved, and he would be told if there was an issue with the request. He started his terminal leave and was not aware his SLA request for 32.5 days was not fully approved and that he needed to change his leave plan; therefore, he continued his terminal leave as planned/approved. Unfortunately, a copy of the finalized SLA request still cannot be found, and the only way he became aware of what occurred is through his Leave and Earning Statement (LES). The Sep 19 LES indicated a leave balance of 83.5 days and the LES for Oct 19 reflected 80 days, with 6 days leave lost in the fiscal year.

This caused him to lose 5.5 days of leave in the new fiscal year that had been removed from his total balance, even though the finance office had included these days in the total amount of leave he was authorized. If he had used those 6 days in Sep 19, and delayed his Permissive TDY, he would have avoided a negative leave balance.

When he received a debt notification from the Defense Finance and Accounting Service (DFAS), he worked with the comptroller office and they recommended he correct his leave dates to avoid the debt due to the excess leave. The comptroller office initiated a Case Management System (CMS) case with amended AF Forms 988, with the new plan avoiding the negative leave

balance. Because the CMS case was not resolved by 28 Jan 22, he paid the debt amount of \$2,193.69 (including interest charged in Jan 22) to avoid referral of the debt to the credit bureaus.

On 14 Feb 22, he was informed his active duty pay record was no longer active, and he needed to submit an application to the Air Force Board for Correction of Military Records (AFBCMR) requesting: (1) approval of the amended AF Forms 988; (2) notification to DFAS that there should not have been a negative leave balance; and (3) DFAS refund the original amount of the debt (not including later interest charged in Jan 22) of \$2,189.84.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force colonel (O-6).

On/About 24 Jun 18, according to Special Order XXXXX, dated 18 Jun 18, and provided by the applicant, he was ordered to temporary duty for a period of 375 days.

According to documentation provided by the applicant, his LeaveWeb profile, dated 8 Aug 19, reflects current leave balance as 87.5 days, with 32.5 days Use/Lose, and open leave requests: (1) 31 Aug 19 – 1 Sep 19 (Ordinary), 2 days, Authorized (Leave #XXXX); (2) 11 Sep 19 – 30 Sep 19 (Permissive), 20 days, Approved; and (3) 2 Oct 19 – 31 Dec 19 (Terminal), 91 days, Approved.

On 12 Aug 19, according to *Finance Retirement/Separation Checklist*, provided by the applicant, his proposed leave for Permissive TDY (11 Sep 19 – 30 Sep 19) and Terminal Leave (2 Oct 19 – 31 Dec 19) was annotated and his leave record was verified.

On 31 Dec 19, the applicant was furnished an honorable discharge, with Narrative Reason for Separation: Sufficient Service for Retirement, and credited with 24 years, 11 months, and 26 days active service.

On 1 Jan 20, according to Special Orders No. XXXXX, the applicant retired.

On 29 Dec 21, according to documentation provided by the applicant, a CPTS/FMF email was transmitted requesting establishment of a CMS case to correct AF Forms 988, and close out erroneous Out of Service debt. Amended AF Forms 988 attached reflect: (1) 31 Aug 19 – 7 Sep 19 (Ordinary), 8 days, Authorized (Leave #XXXX); (2) 17 Sep 19 – 6 Oct 19 (Permissive), 20 days, Authorized (Leave #XXXX); and (3) 8 Oct 19 – 31 Dec 19 (Terminal), 85 days, Authorized (Leave #XXXX)

On 4 Jan 22, CMS Case #XXXXX, was opened to correct the applicant's leave.

On 28 Jan 22, according to documentation provided by the applicant, a Pay.Gov receipt in the amount of \$2,193.69, for DFAS Out of Service Debt was sent to the applicant.

On 14 Feb 22, CMS Case #XXXXX was closed without action, and referred to the AFBCMR.

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

AIR FORCE EVALUATION

AFPC/DP2SSM recommends granting the application. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The applicant was deployed from 4 Jul 18 through 2 Jul 19, in support of Operation FREEDOM'S SENTINEL, a contingency operation. The applicant's terminal leave documentation reflecting his 87.5 days of leave was routed by the finance office and approved by the applicant's commander. The applicant had a pending CMS case for SLA leave restoration, but it was not resolved prior to his date of separation. The applicant did not provide all required SLA documents, but did meet the criteria for the reinstatement of SLA in accordance with Department of the Air Force Instruction 36-3003, *Military Leave Program*, paragraph 5.2.

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 14 Jun 22, 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/DP2SSM and finds a preponderance of the evidence substantiates the applicant's contentions. The applicant's leave requests should not have been approved/authorized until his SLA request was resolved. 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. The following AF Forms 988, *Leave Request/Authorization*, be amended to reflect:

- (1) 31 Aug 19 - 7 Sep 19 (Ordinary), 8 days, Authorized (Leave #XXXXXX)
- (2) 17 Sep 19 - 6 Oct 19 (Permissive), 20 days, Authorized (Leave #XXXXXX)
- (3) 8 Oct 19 - 31 Dec 19 (Terminal), 85 days, Authorized (Leave #XXXXXX)

- b. Reimbursement of funds collected to satisfy erroneous Out of Service Debt associated with leave balance calculation.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-01180 in Executive Session on 20 Oct 22:

, 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 27 Mar 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DP2SSM, dated 14 Jun 22.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 14 Jun 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

X

Board Operations Manager, AFBCMR