

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02935

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Twenty-two (22) days of leave be restored to his current leave balance.

APPLICANT'S CONTENTIONS

In Fiscal Year 2022 (FY22), he received a short tour (365-day) deployment tasking. He was deployed from May 2021 to June 2022, which was subsequently followed by a short notice, out-of-cycle permanent change of station (PCS) assignment. Based on the requirements of eligibility for leave restoration, all SLA requirements were met according to DAFI 36-3003, *Military Leave Program*, paragraph 5.8.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving chief master sergeant (E-9).

According to Special Order xxx, provided by the applicant, he was deployed or in transit to and from xxx. TDY Length reflects 368 days.

The applicant provided a travel voucher confirming he departed from his duty location on 24 May 2021 and returned on 3 June 2022.

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

APPLICABLE AUTHORITY

Title 10, United States Code (U.S.C.), Section (§) 701: *Entitlement and accumulation*; Title 10, U.S.C. § 1552: *Correction of military records: claims incident thereto*; DAFI 36-3003, *Military Leave Program*; AFI 36-2603, *Air Force Board for Correction of Military Records*; Total Force Military Leave Program Personnel Services Delivery Guide.

A military member may not carry forward a leave balance of more than 60 days into a new fiscal year, except when entitled to special leave accrual (SLA). SLA is authorized for members who have deployed in support of contingency operations for 120 continuous days or assigned to locations approved as "qualifying duty" by the Secretary of the Air Force and are faced with circumstances that prohibit them from taking leave. The situation preventing a member from using leave must have been caused by a catastrophe, national emergency and/or crisis, or operations in defense of national security. SLA shall not be used as a means to authorize the accumulation of leave in excess of 60 days as a result of a member's failure to properly manage their leave balance.

SLA is not authorized when the following precludes members from using leave:

- Normal permanent change of station moves or temporary duty assignments
- Base closures
- Hospitalizations, aeromedical evacuations, quarters, and convalescent leaves
- Details and special working groups
- Training exercises, attending schools or courses, and research requirements
- Pending separations and retirements
- Workload after return from deployment and members did not take leave before 1 October
- Post-Deployment Recovery Time
- Post deployment/mobilization respite absence

Members not eligible for SLA can request recovery of days lost by submitting a DD Form 149, *Application for Correction of Military Record*, to the Air Force Board for Correction of Military Records.

AIR FORCE EVALUATION

AFPC/DPMSSM recommends granting the application. The applicant was deployed from May 2021 to June 2022 on a 365-day deployment tasking. After the deployment he was met with an out of cycle PCS assignment that did not allow him adequate time to take leave and out process. The applicant has an approval SLA memorandum from his unit commander and submitted the request to AFPC. The application was denied by AFPC because it does not meet the requirements for SLA. Using PCS as a contributing factor to why leave was lost is not authorized under SLA provisions. However, based on the documentation provided by the applicant and analysis of the facts, there is evidence of an injustice. The applicant has provided supporting documentation as well as commander's concurrence that his leave was lost due to extenuating circumstances and not because of the applicant's negligence. Although the DAFI 36-3003 provisions do not allow SLA under these circumstances, they believe there is a preponderance of evidence that supports the applicant's claim of injustice.

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 January 2023 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 injustice. The applicant believes his leave should be restored because he met SLA requirements. However, the Board disagrees. Nonetheless, after his deployment the applicant received an out of cycle PCS assignment, which did not allow him adequate time to take leave and out process. Therefore, the Board concurs with the rationale and recommendation of AFPC/DPMSSM and finds a preponderance of the evidence substantiates the applicant's contentions. Accordingly, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that twenty-two (22) days of leave be added to his current leave balance.

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-2022-02935 in Executive Session on 2 February 2023:

Mr., Chair, AFBCMR
Dr., Panel Member
Mr., Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 3 November 2022.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory opinion, AFPC/DPMSSM, dated 3 January 2023.
Exhibit D: Notification of Advisory, SAF/MRBC to applicant, dated 4 January 2023.

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