

## **RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-02993

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### **APPLICANT'S REQUEST**

Nineteen (19) days of leave be restored to his current leave balance.

### **APPLICANT'S CONTENTIONS**

He was misadvised by his local finance office regarding his projected terminal leave and the guidance concerning Special Leave Accrual (SLA). He was informed he could carry up to 120 days and would not be limited to what he carried over to Fiscal Year 2022 (FY22). He provided a Memorandum for Record, dated 4 October 2022, from his Flight Commander corroborating his claims.

The applicant's complete submission is at Exhibit A.

### **STATEMENT OF FACTS**

The applicant is a currently serving Air Force major (O-4).

On 4 October 2022, the applicant's flight commander issued a memorandum for record indicating the Comptroller Squadron miscounseled the applicant on several occasions regarding COVID-19 SLA policy. Once the Comptroller Squadron realized they provided an incorrect interpretation of the policy, they sent out Public Service Announcement; however, there is no evidence the applicant received corrected information.

On 15 November 2022, according to a myPers TFSC email, provided the applicant, on 1 October 2021, the applicant had 80.5 days of leave, this is the maximum allowable carryover from FY to FY as long as the applicant did not use more than 30 days in a FY. Any days in excess of 30 days starts to reduce SLA for members by the number of days over 30. In the applicant's case he came into FY 211001 with 80.5 days, earned 30, used 11, and had a balance of 99.5; however, only 80.5 days is allowed to be carried from FY to FY not the full 99.5. Therefore, he lost 19 days when FY 221001 began and was only allowed to carry over 80.5. The current leave balance is correct, and any leave restoration needs to be requested through the Board of Corrections of Military Records.

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 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. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The applicant has provided supporting documentation as well as commander's concurrence that his terminal leave was miscalculated and he was misadvised by his local finance office and not because of the applicant's negligence. Although 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 26 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 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. 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 that nineteen (19) days of leave be restored 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-2022-02993 in Executive Session on 16 February 2023:

Mr., Panel Chair  
Ms., Panel Member  
Ms. Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 15 November 2022.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DPMSSM, dated 24 January 2023.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 26 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