



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-2023-00559

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Eleven and one half (11.5) days of leave be restored to his leave account.

APPLICANT'S CONTENTIONS

He was not given the opportunity to use leave during Fiscal Year 2022 (FY22). Leave is critical to the mental health and general well-being of all servicemembers. He should not be punished for circumstances beyond his control and the dedication to his mission. He should be allowed to use the leave he earned.

In support of his request, the applicant provided memorandum from his acting commander indicating he lost 11.5 days of leave in FY22 through no fault of his own. Due to a number of circumstances (Squadron Officer School (SOS), a medical procedure, a permanent change of station (PCS) from *Work-Product* and temporary duty (TDYs), he has not been afforded the opportunity to take his allotted 30 days of leave.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving Air Force captain (O-3).

According to AF 475, *Education/Training Report*, the applicant was at SOS for five weeks. The period of report reflects 8 November 2021 through 15 December 2021

According to AF Form 899, *Request and Authorization for Permanent Change of Station – Military*, the applicant was authorized a PCS with PCA from *Work-Product* with a RNLTD of 31 May 2022.

The following documents were provided by the applicant:

According to DD Form 1610, *Request and Authorization for TDY Travel of DOD Personnel*, dated 24 June 2022, TDY purpose reflects training for approximately seven days to proceed on 26 June 2022 – from *Work-Product*

According to DD Form 1610, *Request and Authorization for TDY Travel of DOD Personnel*, dated 11 August 2022, TDY purpose reflects training for approximately six days to proceed on 14 August 2022 – from *Work-Product*

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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

According to DD Form 1610, *Request and Authorization for TDY Travel of DOD Personnel*, dated 16 August 2022, TDY purpose reflects training for approximately 58 days to proceed on 23 August 2022 – from [REDACTED] *Work-Product*

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

AIR FORCE EVALUATION

AFPC/DPMSSM (Special Programs) recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant does not meet eligibility requirements for Special Leave Accrual (SLA). The applicant's stated reasons they were not able to take leave were due to PCS, TDY, and medical leave. These reasons are ineligible reasons for SLA in accordance with paragraph 5.8.

According to DAFI 36-3003, *Military Leave Program*:

5.2. SLA allows members assigned to hostile fire/imminent danger pay areas for 120 consecutive days or more or members not serving in a hostile fire or imminent danger area, but who are assigned to qualifying duties, as designated by SAF/MR, to accumulate leave in excess of 60 days. Furthermore, it should be a result of the members' inability to take leave or to reduce their leave balance to 60 days before the end of the fiscal year while being assigned to said activities. In assessing whether or not a member has exhausted all means to reduce their leave balance to 60 days before the end of the fiscal year, commanders should assess the entire fiscal year, including the time prior to and after the deployment.

5.2.2. Members who serve on active duty while entitled to hostile fire/imminent danger pay for a continuous period of at least 120 days and members serving in a "qualifying duty" as designated by SAF/MR are authorized to retain such leave (not to exceed 120 days) until the end of the third fiscal year following the fiscal year in which SLA was lost.

5.2.3. 5.8. Members assigned to a non-hostile fire pay and/or non-imminent danger pay area in support of a contingency operation who are on Contingency, Exercise, and Deployment orders (and in rare cases, DD Form 1610, *Request and Authorization for TDY Travel of DoD Personnel orders*), are authorized to retain such leave up to 120 days until the end of the second fiscal year following the fiscal year in which SLA was lost.

Members are ineligible for SLA when the following precludes using leave (this list is not all-inclusive): Normal permanent change of station moves and TDY; Base closures; Hospitalizations, aeromedical evacuations, quarters, and convalescent leaves; Details and special working groups; Research requirements; or attending training exercises, schools or courses, unless they are required for the deployment that resulted in the loss of leave; Pending separations and retirements; Workload after return from deployment; Post-Deployment recovery time; Post deployment/mobilization respite absence.

5.9. Members not eligible for SLA, for the reasons listed in paragraph 5.8, can request recovery of days lost by submitting a DD Form 149 to the Board of Correction of Military Records (BCMR). See AFI 36-2603. Applications must clearly establish that an error or injustice by the Air Force caused the member's lost leave.

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 10 May 2023 for comment (Exhibit D), and the applicant replied on 15 May 2023. In his response, the applicant contended he is requesting his leave be returned IAW DAFI 36-3003, section 5.9, “Members not Eligible for SLA.” He believes the recommendation of denial is based on a misunderstanding.

The applicant’s complete response is at Exhibit E.

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. While the Board notes the recommendation of AFPC/DPMSSM against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant’s contentions. The Board determined the letter from the applicant’s commander, dated 11 January 2023, detailing how the applicant was unable to utilize lost leave before the end of the fiscal year was sufficient to grant restoration of 11.5 days of leave. 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 eleven and one half (11.5) days be restored to his leave account commencing 2 October 2024.

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-2023-00559 in Executive Session on 21 September 2023:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 13 April 2023.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSM, dated 4 May 2023.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 10 May 2023.
- Exhibit E: Applicant’s Response, w/atchs, dated 15 May 2023.

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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.

11/2/2023

X

Work-Product

Board Operations Manager, AFBCMR

Signed by

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