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## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-00641

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

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### APPLICANT'S REQUEST

1. Her active duty service commitment (ADSC) be changed from Mar 25 to Aug 24. (**PARTIAL ADMINISTRATIVE RELIEF**).
2. She receive active duty service credit for the period of 1 Sep 20 to 15 Mar 21 and backpay for the time spent awaiting orders.
3. She be reimbursed for her permanent change of station (PCS).

### APPLICANT'S CONTENTIONS

She undertook her PCS on 17 Aug 20 in good faith and as a direct result of communication with the Air Force Personnel Center (AFPC) Radiology Consultant, the Air Force Centralized Credentials Office and the David Grant Medical Center Radiology Department. She was ready to report for her projected report not later than date (RNLTDD) of 1 Sep 20. The first she heard her orders would be delayed was in late Sep 20. She remained ready for the six and a half months at great personal expense. She was unable to secure employment but despite not being on orders, she completed portions of her assignment during the period. She served as a Department of Defense (DOD) representative for the Veterans Affairs (VA)/DOD Low Back Pain Clinical Practice Guideline Working Group and contributed over 100 hours in meetings, research, writings and delivered two lectures.

Upon receiving orders on 12 Mar 21, she was able to report within 72 hours as instructed and in-processed on 15 Mar 21. However, she was not paid for her PCS because she had already moved to the local area.

She provides a letter of support from her flight commander dated 23 Feb 23. The letter states the radiology department expected the applicant to report for duty on 1 Sep 20. They were uncertain as to the cause for the delay in her re-accession. She remained on the schedule until late Oct 20 when they were forced to make plans for another radiologist to cover her scheduled weeks. Another member of their staff was in a similar situation several years prior; however, his re-accession was not delayed for scroll processing. It was never clear why the same could not be done in the applicant's case.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a major (O-4) in the Air Force.

On 5 Jun 13, the applicant entered a period of service in the Regular Air Force and resigned her commission on 19 Aug 18. She was honorably discharged in the rank of captain (O-3).

On 20 Aug 18, she was appointed in the Air Force Reserve as a medical re-deferment participant.

Per Reserve Order dated 23 Oct 20, the applicant was promoted to the rank of major with a date of rank (DOR) and effective date of promotion of 14 May 20.

On 15 Mar 21, the applicant entered active duty in the rank of major per AF IMT 766, *Extended Active Duty Order*, dated 12 Mar 21. Her active duty scroll was approved by the Secretary of Defense (SecDef) on 12 Feb 21.

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

### **APPLICABLE AUTHORITY/GUIDANCE**

Per 10 U.S.C. § 531. Original appointments of regular commissioned officers in the grade of O-3 and below are made by the President alone. Original appointments of regular officers in the grades of O-4 to O-6 are made by the President with the advice and consent of the Senate.

### **AIR FORCE EVALUATION**

AFPC/DPMN partially corrected the applicant's record for relief from her ADSC. Her ADSCs were adjusted to account for periods of qualifying service. These administrative corrections have been made to reflect the Health Professions Scholarship Program (HPSP) and Critical Skills Accession Bonus (CSAB). The ADSCs will be satisfied on 11 Feb 25 and 7 Mar 25, respectively.

However, AFPC/DPMN recommends denial for the requests for backpay for PCS, service credit and back pay for time spent awaiting orders. The applicant's travel and expenses occurred before a travel authorization was issued on 12 Mar 21 and are not reimbursable. Verbal authorization was not given to the applicant prior to orders being published.

The applicant was selected to complete a neuroradiology fellowship program from 20 Aug 18 to 17 Aug 20 as part of the Physician Re-Deferment Program. This program requires active duty physicians to separate to the Obligated Reserve Section of the Individual Ready Reserve (IRR) to complete the program. In accordance with DODI 6000.13, *Accession and Retention Policies, Programs and Incentives for Military Health Professions Officers (HPOs)*, and AFI 36-2107, *Active Duty Service Commitments*, the ADSCs can only be satisfied on EAD and not during any period of training or education. Therefore, the ADSCs begin to be satisfied upon reentry to EAD.

On 12 Feb 20, AFPC Officer Promotions Office notified AFPC Medical Officer Accessions, the applicant was selected for promotion to major by the Regular Air Force CY17A Major Medical Corps Centralized Selection Board (CSB), with an estimated pin on date of 14 May 19. AFPC/DPMNA then inquired with the Air Reserve Personnel Center (ARPC) on the status of the applicant's promotion to major in the Reserves to allow them to submit the appropriate appointment nomination when she entered on active duty. On 14 Feb 20, ARPC advised they would honor her promotion from the RegAF provided there was no break in service. On 20 Mar 20, ARPC advised there was a delay in submitting her scroll package and AF/AIPT advised the applicant would have to wait until the Reserve Major Promotion package was signed by the SecDef. At that point, the applicant would appoint in the Reserve of the Air Force to the rank of major. Then, she would transfer from the Reserve component to the RegAF. On 11 Aug 20, the Reserve promotion package was with SAF/GC. The AFPC assignment officer initially informed

the applicant of a projected assignment report not later than date (RNLTDD) of 1 Sep 20. However, she was also told to be patient and she was not informed by AFPC to proceed to her base without orders.

On 17 Aug 20, the applicant completed her civilian medical fellowship training program. Between 22 Sep 20 and 22 Oct 20, the Air Force Reserve Promotions Office continued to keep AFPC notified on the status of the applicant's pending Reserve promotion package. On 23 Oct 20, the applicant's promotion scroll was approved, and orders were published with an effective DOR of 14 May 20.

On 12 Feb 21, the applicant's RegAF Major Scroll was signed by the SecDef and AFPC received the scroll notification on 17 Feb 21. On 2 Mar 21, the AFPC Medical Retention office completed a review of the applicant's medical records to determine she was still medically qualified to enter active duty on 9 Mar 21. On 12 Mar 21, the applicant's EAD order was published with a report on or after 15 Mar 21. This is not the applicant's first time to enter onto active duty with an EAD order.

Transitional authority to appoint Reserve officers to the RegAF is delegated to the SecDef under 10 U.S.C. § 531(c). In accordance with AFMAN 36-2032, *Military Recruiting and Accessions*, paragraph 5.14, under DODI 1310.02, *Original Appointment of Officers*, reads All officers commissioned to the RegAF receive regular appointments at the time they enter active duty on the active duty list. Therefore, AFPC was not authorized to publish her EAD order until they received the approved scroll signed by the SecDef.

The Joint Travel Regulations (JTR) paragraph 010206, Travel Authorizations and Orders: Travel and transportation allowances are payable only after valid orders are issued. Travel or expenses incurred before a travel authorization or order is issued are not reimbursable. In unusual or urgent situations when travel must begin before a written authorization or order can be issued, a verbal authorization may be given. In such cases, the verbal authorization must be followed up in writing (confirmatory order) before allowances are paid.

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 May 23 for comment (Exhibit D). In a response dated 19 Jun 23, the applicant contends the advisory states she was told to be patient. She understood this to mean she should not repeatedly contact AFPC to inquire about the status of her orders, which is why she did not persist when her Jul email went unanswered. At the same time, all other sources (radiology consultant and her gaining base) indicated she was expected and needed by 1 Sep 20, which is why she moved there on 20 Aug 20, after completing her fellowship.

If it is determined the Board cannot alter the date, then perhaps her time can be counted toward fulfilling her ADSC. She was disadvantaged and placed in financial and professional limbo. She considered applying for unemployment benefits but ultimately did not because she feared it would reflect negatively upon the military. She was eventually able to secure a limited teleradiology position. Even so, she missed on several months of wages and the gap in her employment delayed her neuroradiology accreditation by one year. She implores the Board to consider how the situation can be set right for her and her family.

The applicant's complete response is at Exhibit E.

## **FINDINGS AND CONCLUSION**


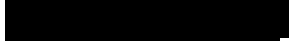
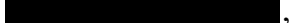
1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPMN and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant has not provided sufficient evidence to conclude she was provided verbal or hardcopy orders by any assignment authority to proceed to her PCS location in Sep 20 as required by the JTR. While the applicant provides a letter of support from her flight commander dated 23 Feb 23, the Board does not find the endorsement persuasive to grant relief. In this respect, her flight commander states while they expected she would report in Sep 20, they were uncertain as to the cause of the delay in her re-appointment. Further, this Board, which serves on behalf of the Secretary of the Air Force, is without authority to backdate the applicant's EAD as requested. As pointed out by AFPC/DPMN, the authority for transitional authority to appoint Reserve officers to the RegAF is delegated to the SecDef under 10 U.S.C. § 531(c). While the applicant, as an alternative, requests she be credited for her time through a reduction of her ADSC, service credit towards an ADSC must be accomplished during a period of active duty service. Therefore, aside from the administrative correction of her ADSC, the Board recommends against correcting the applicant's records.
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 Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

## **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-2023-00641 in Executive Session on 6 Jul 23:

, Chair, AFBCMR  
, Panel Member  
, Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 1 Mar 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMN, w/atchs, dated 26 Apr 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 4 May 23.
- Exhibit E: Applicant's Response, w/atchs, dated 19 Jun 23.

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.