



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00899

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

Restore forty-two (42) days of leave sold inadvertently on 1 October 2023 during his transition from the active component pay system to the Reserve component pay system.

APPLICANT'S CONTENTIONS

His leave (42 days) was approved to be rolled over from his active component pay profile to his Reserve component pay profile; however, the system sold the leave prior to the transfer taking place. There was never an intent to sell the leave back. Due to budget issues going into Fiscal Year 2024 (FY24) his orders were not approved until 6 October - this caused a delay in his paperwork.

In support of the applicant's appeal, he provided a letter from his commander indicating she approved the applicant's request to use leave carryover. She understood the leave days would be added to the order for which approved, and the days would be charged to the order and the applicable appropriation.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving Air National Guard (ANG) chief master sergeant (E-9).

Order Number Work-Product, dated 5 October 2023, provided by NGB/A1PS reflects Type of Duty/ Authority: Full Time National Guard Duty – Active Guard Reserve – Continuation Tour 32 USC 502(f)(1) & 32 USC 328. Purpose: Full-Time Duty (AGR Tours Only). Itinerary: 1 April 2019 – 30 September 2023 (from Work-Product to Work-Product and return to Work-Product).

AF Form 1089, *Leave Settlement Option*, signed 6 October 2023 reflects "Remarks IV. Leave Settlement at end of MPA/RPA Tour (RC Only)." In conjunction with his projected end of MPA/RPA tour on 30 September 2023 and order number Work-Product the applicant made the leave settlement election. He elected to carry forward 43 days of his accrued leave.

Order Number Work-Product, dated 11 January 2024, provided by NGB/A1PS reflects Type of Duty/ Authority: Active Duty – Active Duty for Operational Support 10 USC 12301(d). Purpose: Operational Support. Itinerary: 1 October 2023 – 30 September 2024 (from Work-Product to Work-Product and return to Work-Product).

AFBCMR Docket Number BC-2024-00899

Work-Product

Controlled by: SAF/MRB

CUI Categories: Work-Product

Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

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

AIR FORCE EVALUATION

NGB/A1PS 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. NGB/A1PS concurs with restoring the applicant's active component pay record 42 days which were sold and carry them over to the applicant's current Reserve component pay record.

The applicable policy at the time of the alleged error or injustice is AFI 36-3003, *Military Leave Program* (24 August 2020). 37 U.S. Code § 501 – *Payments for Unused Accrued Leave*. 10 USC §701, Entitlement and accumulation. DoD 7000.14-R, *Department of Defense Financial Management Regulation* (DoD FMR), Volume 7B, Chapter 35 (July 2022). Based on the package provided, NGB/A1PS confirms the applicant requested to carry forward 43 days of his accrued leave on a Leave Carryover Statement of Understanding Election signed 23 October 2023. He also requested to carryover 43 days of his accrued leave days on the AF Form 1089, *Leave Settlement Option*, signed on 6 October 2023 to an immediate reentry on active duty for Operational Support order Work-Product.

Title 10 United States Code §701, *Entitlement and accumulation* (3) (B) (7) (B) (i), states "A member of a Reserve component who accumulates leave during a period of active service may carry over any leave so accumulated to the member's next period of active service, subject to the accumulation limits in subsections (b) and (e), without regard to separation or release from active service if the separation or release is under honorable conditions. The taking of leave carried over under this subsection shall be subject to the provisions of this section." The applicant did not meet the required actions by law that a service member must abide by prior to the order end date to exercise this option. However, the required action was unable to be accomplished as his active-duty operational support order was not approved until 5 October 2023, after the 1 October 2023, start date. Title 37 United States Code §501, *Payments for unused accrued leave* (b)(3), states "Payment may not be made to a member for any leave he elects to have carried over to a new enlistment in any uniformed service on the day after the date of his discharge; but payment may be made to a member for any leave he elects not to carry over to a new enlistment." The applicant's election to carry forward 43 days of accrued leave was not granted because his AF Form 1089 was signed on 6 October 2023, after his Active Guard Reserve Order Work-Product order end date of 30 September 2023.

Reserve component service members separating from an active duty pay record with an immediate reentry on an active-duty status may carry over their accrued leave to a Reserve component pay record. DoD 7000.14-R, FMR, Volume 7A, Chapter 35 (July 2022), paragraph 2.1.1, "A member who is discharged or separated under honorable conditions is entitled to payment of unused accrued leave unless the member continues on active duty under conditions which require accrued leave to be carried forward, or in the case of a Reserve component member, the member elects to have the leave carried forward to the member's next period of active service." Preponderance of evidence is defined as the greater weight of credible substantiation.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy the advisory opinion to the applicant on 20 June 2024 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 NGB/A1PS 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 forty-two (42) days of leave be added to his current leave balance.

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-2024-00899 in Executive Session on 24 September 2024:

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, Panel Chair

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, Panel Member

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, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 26 April 2024.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory opinion, NGB/A1PS, dated 11 June 2024.

Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 20 June 2024.

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.

2/13/2025

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Board Operations Manager, AFBCMR

Signed by:

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AFBCMR Docket Number BC-2024-00899

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