

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NO: 97-03451

AUG 21 1998

[REDACTED]  
[REDACTED]  
[REDACTED]  
COUNSEL: NONE

HEARING DESIRED: YES

Applicant requests that his records be corrected that he did not sell 40 days of leave at the time of his separation and that 40 days leave be restored to his current leave account. Applicant's submission is at Exhibit A.

The appropriate Air Force offices evaluated applicant's request and provided advisory opinions to the Board recommending the application be denied (Exhibit C). The advisory opinions were forwarded to the applicant for review and response (Exhibit D). Applicant has provided a response (Exhibit E).

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinion appear to be based on the evidence of record and have not been adequately rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issue(s) involved. Therefore, the request for a hearing is not favorably considered.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. Thomas S. Markiewicz, Mr. Henry Romo Jr., and Mr. Walter J. Hosey, considered this application on 19 August 1998, in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.

  
THOMAS S. MARKIEWICZ  
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinion
- D. AFBCMR Ltr Forwarding Advisory Opinion
- E. Applicant's Response



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE TEXAS

08 JAN 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPSFC  
550 C Street West, Ste 37  
Randolph AFB TX 78150-4739

SUBJECT: Application for Correction of Military Records - [REDACTED]

Requested Action and Basis for Request. Allow applicant to repay payment for **40** days' accrued leave and restore the 40 days to the leave account. Applicant states finance did not inform him of the method used to compute payment of accrued leave.

Facts and Discussion. Since 1976, finance uses basic pay to compute payment for accrued leave. Accrued leave is payable when members separate without immediate reentry on active duty. Finance carries it forward if they reenter active duty immediately upon separation. Applicant separated on 15 May 97 under the Palace Chase program. AFPC assigned him to the Reserves on 16 May in order to accept a Reserve commission. The **system** shows reentry on active duty on 17 May. Applicant states he elected to wait and reenter active duty in order to benefit by getting some extra cash and lower his leave balance to avoid losing any leave at the end of the **FY**. He now wants to repay the money received for the accrued leave and wants the **40** days restored to his leave account. He states finance did not inform him there would be a **28%** deduction in federal income tax. He also did not know he would lose money in allowances. In this case, the applicant purposely elected not to reenter active duty immediately after separation to receive payment for accrued leave. We cannot find the Air Force culpable.

Recommendation. Defer to the DFAS to determine whether finance should have informed the applicant regarding the method of payment for accrued leave and whether applicant can repay the money received to restore 40 days.

[REDACTED]  
Major, USAF  
Chief, Commanders' Programs Branch

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DEFENSE FINANCE AND ACCOUNTING SERVICE  
DENVER CENTER  
6760 E. IRVINGTON PLACE  
DENVER, COLORADO 80279

DFAS-DE/FYCC

FEB 13 1998

MEMORANDUM FOR AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS  
ATTN: AFBCMR

SUBJECT: Application for Correction of Military Records

We examined the application for correction of military records for [REDACTED]. Since we are unable to take action to administratively provide the relief sought, we are forwarding it for your consideration.

The applicant is requesting to repay 40 days of lump sum leave and that the 40 days be restored to his leave account. The applicant has filed a timely request.

The applicant separated from the Air Force on May 15, 1997, and reentered active duty in the [REDACTED] Air National Guard on May 17, 1997. Upon separation from the Air Force, the applicant received a payment for the 40 days of accrued leave in the amount of \$5,330.00, less deductions.

According to the Department of Defense Financial Management Regulation, Volume 7A, Table 35-1, members who separate from the military without immediate reentry on active duty are paid accrued leave. Because the applicant elected a break in service, the finance office was correct in paying the accrued leave. Considering this information, we find there has not been an error or injustice. We recommend denial of the applicant's request.

Our address is DFAS-DE/FYCC, 6760 East Irvington Place, Denver, Colorado 80279-7100. Our point of contact is [REDACTED] and he may be reached at DSN [REDACTED], or (303) [REDACTED].

[REDACTED]  
Chief, Claims Branch  
Directorate of Debt and Claims  
Management

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