

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS  
FEB 24 1999

IN THE MATTER OF:

DOCKET NUMBER: 98-00549

COUNSEL: [REDACTED]

HEARING DESIRED: Yes

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APPLICANT REQUESTS THAT:

He be released from the remaining one year of his 36-month active duty service commitment (ADSC).

**Or, in the alternative,**

He be allowed to "buy out" the remaining one year for some monetary amount or he continue his service in the inactive Air Force Reserves or Air National Guard.

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APPLICANT CONTENDS THAT:

The reasons applicant believes he has been the victim of an error and/or an injustice are contained in his personal statement and his counsel's brief.

Applicant's complete submission is at Exhibit A.

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STATEMENT OF FACTS:

The following information was extracted from the Secretary of the Air Force (SAF) Personnel Council files:

- Applicant's difficulties began in his freshman year at the USAF Academy (USAFA). He was absent from class without authority three times, wore civilian clothes without authority, bounced a check, drove a car without privileges, missed formation, failed to sign out of the unit, was AWOL from training, was disrespectful when counseled about his appearance, and performed poorly academically. He was put on academic, aptitude and conduct probation; however, he performed poorly and probation was extended. His performance then improved, but by this time he was referred to a Military Review Committee (MRC) for having an academic minus and a military minus. He was then seen out of cadet limits at a local restaurant.

- On 19 July 1995, the SAF General Counsel found the record legally sufficient to support the Superintendent's recommendation for disenrollment.

- On 29 August 1995, the SAF, through the Deputy for Air Force Review Boards, approved the recommendation of the USAFA Board to disenroll and honorably separate the applicant. The SAF granted him an educational delay to complete his degree, and further directed that he be transferred to the Air Force Reserves in enlisted status and ordered to active duty for a period of three years.

The remaining relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letter prepared by the appropriate office of the Air Force. Accordingly, there is no need to recite these facts in this Record of Proceedings.

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AIR FORCE EVALUATION:

The Chief, Skills Management Branch, HQ AFPC/DPPAES, reviewed this appeal and asserts the fact remains that the applicant knew he would incur a 36-month ADSC. Granting him a 12-month curtailment would not be fair to other members currently serving out their involuntary EAD tour.

A copy of the complete Air Force evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Counsel reviewed the evaluation and questions why the alternative means of reimbursement suggested by the applicant would not be appropriate. He does not dispute the fact that the applicant knew he would incur a 36-month ADSC. However, he believes it is in the interests of all concerned that his client be allowed to curtail his ADSC.

A copy of counsel's complete rebuttal is at Exhibit E.

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After a thorough review of the evidence of record and applicant's submission, we are not persuaded that his remaining ADSC should

be waived. Applicant's and counsel's contentions are duly noted; however, we do not find these assertions, in and by themselves, sufficiently persuasive to override the rationale provided by the Air Force. The applicant offers "alternative means of reimbursement;" however, the ADSC incurred as a result of his disenrollment from the USAFA is prescribed by statute and Department of Defense Directive 1332.23. Even if it were not, we find no error or injustice to warrant granting the applicant exceptional treatment not afforded others similarly situated, nor would it be in the best interests of the Air Force. Therefore, in view of the above and absent persuasive evidence to the contrary, we find no compelling basis to recommend granting the relief sought.

4. The documentation provided with this case was sufficient to give the Board a clear understanding of the issues involved and a personal appearance, with or without legal counsel, would not have materially added to that understanding. Therefore, the request for a hearing is not favorably considered.

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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

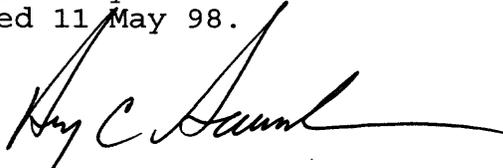
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The following members of the Board considered this application in Executive Session on 17 November 1998, under the provisions of AFI 36-2603:

Mr. Henry C. Saunders, Panel Chair  
Mr. Henry Romo Jr., Member  
Dr. Gerald B. Kauvar, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 17 Mar 98, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPAES, dated 20 Apr 98.
- Exhibit D. Letter, AFBCMR, dated 4 May 98.
- Exhibit E. Letter, Counsel, dated 11 May 98.



HENRY C. SAUNDERS  
Panel Chair