

SEP 24 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 95-03389

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

He be returned to active duty so that the dental treatment he was unable to receive prior to his retirement may be completed.

APPLICANT CONTENDS THAT:

On 22 Nov 93, he initiated paperwork to HQ AFMPC to extend his retirement date to coincide with the completion of his dental treatment. It was denied by AFMPC on the basis that medical treatment would be available by the Veterans Administration (VA) after his retirement. He turned in all necessary paperwork to the VA that indicated he was not eligible to receive medical treatment. The dental problem developed since he entered the Air Force. He was given erroneous information by AFMPC.

In support of his appeal, the applicant provided a personal statement, an Inspector General (IG) Report of Review, and other documents associated with the matter under review.

Applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

Applicant contracted his initial enlistment in the Regular Air Force on 31 Oct 73. He entered his last enlistment on 25 Oct 89 for a period of 4 years. During his service on active duty, he was progressively promoted to the grade of master sergeant.

(The following facts were taken from documentation provided by the applicant):

In Jan 93, the [REDACTED] AFB Dental Clinic began preparing and coordinating a major oral rehabilitation treatment plan for the applicant with the [REDACTED] Naval Medical Center.

On 14 Ma 93, the applicant applied for voluntary retirement to be effective 1 Dec 93.

On 17 May 93, the applicant learned his dental treatment would take 14 to 18 months.

On 23 Aug 93, upon learning of the applicant's projected 1 Dec 93 retirement date, the Chief Resident, Oral and Maxillofacial Surgery, Naval Medical Center, wrote the Chief, Consolidated Base Personnel Office (CBPO) at ██████████ recommended extending the applicant's retirement date to cover his 14 to 18-month dental treatment period due to commence in Sep 93.

On 10 Sep 93, the Chief of Prosthodontics at the ██████████ AFB Dental Clinic wrote the Chief, CBPO at ██████████ AFB requesting support for their efforts towards keeping the applicant on active duty.

On 2 Oct 93, HQ AFMPC disapproved the applicant's first request to cancel or change his retirement action.

On 12 Oct 93, the surgical phase of the applicant's treatment plan was scheduled to begin at the ██████████ Naval Medical Center. However, it was postponed due to the surgeon's unexpected involvement in a trauma operation that day.

On 15 Oct 93, the surgeon at ██████████ Naval Medical Center decided not to schedule the surgical phase of the applicant's treatment until his retirement request was canceled.

On 4 Nov 93, the applicant submitted a second request to withdraw his retirement application; this time due to severe financial hardship.

On 30 Nov 93, HQ AFMPC disapproved the applicant's request to extend his 1 Dec 93 retirement date.

Applicant was relieved from active duty on 30 Nov 93 and retired for length of service, effective 1 Dec 93, in the grade of master sergeant. He was credited with 20 years and 1 month of active duty service.

Following his 1 Dec 93 retirement, the applicant applied to the VA for his final dental treatment.

On 2 Feb 94, the VA notified the applicant that he was only eligible for Class II dental care and did not qualify for implants.

On 30 Sep 94, the applicant sent his case file to a senior Air Force official requesting his assistance. After acknowledging receipt, the official forwarded the applicant's file to the United States Air Force Academy Inspector General (HQ USAFA/IG).

On 2 Dec 94, after informal attempts failed to resolve the applicant's concerns, HQ USAFA/IG sent his case to HQ AFMPC/CS.

On 25 Jan 95, HQ USAFA/IG notified the applicant that his situation could only be remedied by the VA.

On 27 Mar 95, HQ USAFA/IG sent the applicant's case file to the Secretary of the Air Force, Office of the Inspector General Inquiries Directorate (SAF/IGQ).

In a Report of Review, dated 5 Sep 95, SAF/IGQ found that HQ AFMPC based disapproval of the applicant's two requests to cancel or change his retirement date on an erroneous Medical Services staff input that retention on active duty was not necessary--the applicant could receive the dental treatment he needed through the VA. (Only veterans eligible for Class I dental treatment--the applicant was eligible for Class II treatment--could receive the type of dental care needed by the applicant (dental implants) through the VA.

SAF/IGQ concluded the following:

a. On 14 May 93, the applicant--while being evaluated for major oral rehabilitation--voluntarily applied for retirement to be effective 1 Dec 93.

b. As soon as the applicant learned that his dental treatment plan would extend beyond 1 Dec 93--he was ineligible for treatment at the ██████████ Naval Medical Center after he retired--he twice attempted to change or cancel his retirement date. These efforts continued until 30 Nov 93--the day before his retirement.

c. Air Force and Naval dental officials familiar with the applicant's case requested his retirement date be extended to cover his 14 to 18 month dental treatment plan.

d. The applicant was eligible to withdraw his retirement request. His dental condition and treatment plan--the evaluation and coordination took nine months--were not common among retirement eligible members. Further, the cost of comparable civilian dental care would have been prohibitive and represented a severe financial hardship for the member.

e. HQ AFMPC/DPPRS based its disapproval of the applicant's two requests to cancel or change his 1 Dec 93 retirement date on an erroneous staff input; that is, HQ AFMPC/DPMMM's assertion that the applicant could obtain the dental treatment he needed through the VA.

f. The Air Force Board for Correction of Military Records (AFBCMR) is the only appeal channel available to the applicant; he has exhausted all other administrative processes.

AIR FORCE EVALUATION:

The Medical Consultant to the AFBCMR reviewed this application and indicated that a review of the applicant's dental records reveals he had a dental appointment in Oct 93, the month prior to retirement, but that dental care could not be completed prior to retirement. Therefore, his request is appropriate and that recommendation would have been made. However, this all occurred about three years ago. Dental, as well as any other medical condition, can seriously deteriorate within this time period if appropriate therapies are not received. The fact that the applicant now requests follow-up care is considered inappropriate. As is noted in the dental records, this is complex care which may have significantly gotten worse over the years. For this reason alone, the Medical Consultant recommended disapproval.

The Medical Consultant concluded that the Dental Clinic was unable to provide complete dental care which was fairly well documented in the dental entry of 5 Apr 95. He also concluded that since this complex care has been held in abeyance for such a long period of time, the request should be denied.

A complete copy of the Medical Consultant's evaluation is at Exhibit C.

The Program and Procedures Branch, AFPC/DPPRP, reviewed this application and recommended denial. According to DPPRP, they found no evidence of error, injustice, or impropriety in the processing of the applicant's retirement action. The applicant submitted a valid request to retire, which was approved. Further, his subsequent request to change his retirement date was evaluated and denied based on the recommendation of AFMPC/DPMMM. If the AFBCMR finds in the applicant's favor, it would result in granting unearned additional active service for time not served. DPPRP pointed out that there are other possible options that may be beneficial to the applicant consisting of a waiver of the VA policy or a Congressional request for care as mentioned in his IG report/findings.

A complete copy of the DPPRP evaluation, with attachments, are at Exhibit D.

The Medical Standards Branch, AFPC/DPAMM, reviewed this application and recommended denial. DPAMM indicated that the evidence of record and medical examinations prior to separation indicate the applicant was fit and medically qualified for continued military service or appropriate separation and did not have any physical or mental condition which would have warranted consideration under the provisions of AFI 36-3212, Physical Evaluation for Retention, Retirement and Separation. Action and disposition in this case were proper and reflect compliance with Air Force directives which implement the law.

A complete copy of the DPAMM evaluation is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to applicant on 20 May 96 for review and response. As of this date, no response has been received by this office (Exhibit F).

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. The evidence of record reflects that the applicant had dental problems that required extensive treatment beyond his voluntary retirement date. However, his requests to cancel or change his retirement date until the dental work was completed was denied by AFMPC. The basis for the disapproval was that the applicant could receive the dental treatment he needed from the VA. After a thorough review of the facts and circumstances of this case, we noted that the applicant was not eligible for the dental treatment by the VA. Therefore, in our view, the information used as a basis for the denial was erroneous. Also, as indicated by SAF/IGQ in its Report of Review, the applicant's condition and necessary treatment were not common about retirement eligible members. Furthermore, it appears that the cost and comparable civilian dental would have been prohibitive and represented a severe financial hardship for the applicant. In view of the above, we believe that corrective action is warranted in this case. Accordingly, we recommend that the applicant's records be corrected as indicated below.
4. We noted the applicant's request that he be reinstated to active duty so that the dental treatment he was unable to receive prior to his retirement may be completed. While we are persuaded that the applicant's requests to change his retirement date should not have been disapproved based on erroneous information, we do not believe that returning him to active duty, at this late date, would be the appropriate or necessary course of action. We are aware that under certain circumstances, retirees can be provided dental care, only if the workload of the providing facility permits. Based on the error and injustice present in this case, we believe it should be directed that the applicant be provided the required dental care at the nearest Air Force

facility, as an exception to policy. In our estimation, it is only by such action that he will be afforded proper and fitting relief.

THE BOARD RECOMMENDS THAT:

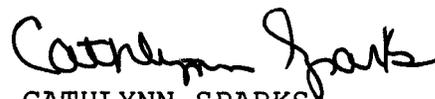
The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that, as an exception to policy, competent authority authorized the scheduling of his required dental treatment at the earliest practicable date, at the nearest Air Force installation to his home of selection.

The following members of the Board considered this application in Executive Session on 26 Aug 97, under the provisions of AFI 36-2603:

Ms. Cathlynn Sparks, Panel Chair
Mr. Vaughn E. Schlunz, Member
Mr. Gregory H. Petkoff, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 21 Oct 95, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, BCMR Medical Consultant, dated 26 Feb 96.
- Exhibit D. Letter, AFPC/DPPRP, dated 28 Mar 96.
- Exhibit E. Letter, AFPC/DPAMM, dated 6 May 96.
- Exhibit F. Letter, SAF/MIBR, dated 20 May 96.


CATHLYNN SPARKS
Panel Chair



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

MEMORANDUM FOR HQ AFPC/DPAMM
AFBCMR
IN TURN

28 March 1996

FROM: HQ AFPC/DPPRP
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Re: [REDACTED]

Requested Action. The applicant retired on 1 Dec 93. He is requesting he be returned to active duty so that dental treatment he was unable to receive prior to retirement may be done.

Basis for Request. The applicant claims he was erroneously denied a change to his retirement date to complete dental treatment.

Discussion:

a. The applicant submitted his request for retirement on 13 May 93 to be effective 1 Dec 93. [REDACTED] The applicant states he believed dental treatment he ~~was~~ scheduled to receive would be completed by that date.

b. Because the applicant found out that the treatment would actually require 14 to 18 months to complete, he requested a change to his retirement date. The applicant provides a copy of a second AF Form 1160 dated 4 Nov 93 [REDACTED] in which he requests a change to his approved retirement date. He based his request on financial hardship stating if the dental treatment was done after retirement, it would cost him \$26,000. The AF Form 1160 is not signed by the CBPO (now the Military Personnel Flight) to indicate he submitted the request to them. However, he provides an undated letter from [REDACTED], Executive NCO of the Retirements and Separations Branch [REDACTED] that verifies a request was submitted and denied based on a recommendation from the Medical Standards Division (AFMPC/DPMMM now AFPC/DPAMM). It was denied because the applicant supposedly could obtain dental treatment from Veterans Administration (VA) channels.

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c. The applicant submitted an IG complaint in the latter part of 1994 concerning his case. Results of that complaint indicate that applicant's only relief was to obtain dental service through the VA [REDACTED]

d. The applicant provides a 21 Feb 95 letter from the VA Regional Office in San Diego CA that tells the applicant he is ineligible for VA dental treatment [REDACTED]

e. The advisory from the Medical Consultant to the AFBCMR states that he believes the applicant should have been allowed to remain on active duty to complete his dental treatment. However, he further states that relief as requested is inappropriate as applicant's medical condition could have seriously deteriorated within the three years that have elapsed. For this reason alone, he recommends disapproval.

f. Air Force policy provides for withdrawal or extension of an approved retirement for hardship or best interest of the Air Force. The applicant submitted such a request which was denied based on a review of the request by AFMPC/DPMMM.

g. AFR 35-7, Service Retirement, dated 1 Oct 87 is the Air Force regulation that applied when the applicant retired. Paragraph 5-4 of that regulation [REDACTED] states that a member's retirement date will not be delayed if the retiree's medical procedure is elective. However, if a member's condition renders the member questionable for continued active duty, the member may be placed on medical hold by AFMPC/DPMMM when the medical facility commander requests their review. If placed on medical hold, the member may not be allowed to retire until the medical condition is resolved. The applicant was not placed on medical hold. This may have been because his dental procedure was elective or because the medical facility commander did not request a medical hold.

h. Since only AFMPC/DPMMM could have placed the applicant on medical hold, we defer to AFPC/DPAMM for their evaluation regarding this issue. Our recommendation addresses only the retirement processing issue.

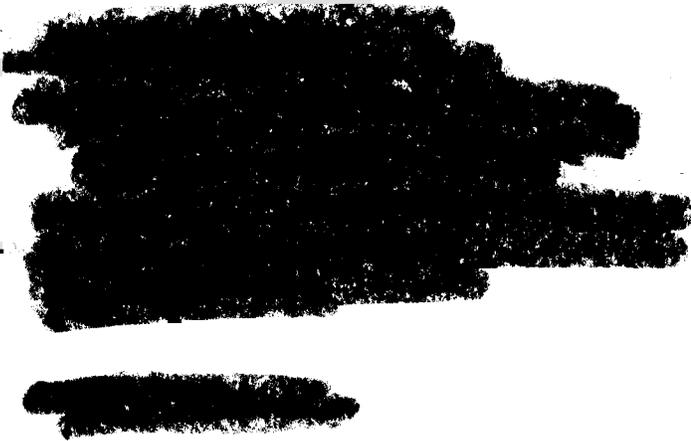
Recommendation. Denial. We find no evidence of error, injustice, or impropriety in the processing of the applicant's retirement action. The applicant submitted a valid request to retire, which was approved. Further, his subsequent request to change his retirement date was evaluated

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and denied based on the recommendation by AFMPC/DPMMM. If the AFBCMR finds in the applicant's favor, it would result in granting unearned additional active service for time not served. We wish to point there are other possible options that may be beneficial to the applicant consisting of a waiver of the VA policy or a Congressional request for care as mentioned in his IG report/findings.

Mary Dauphine

MARY DAUPHINE, GS-9
Programs & Procedures Branch
Directorate of Pers Prog Mgmt



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DEPARTMENT OF THE AIR FORCE
WASHINGTON DC



OFFICE OF THE ASSISTANT SECRETARY

26 February 1996

FROM: Medical Consultant to the Air Force BCMR
1535 COMMAND DRIVE
EE WING, 3RD FLOOR
ANDREWS AFB, MD. 20762

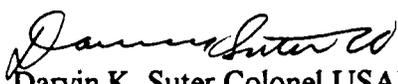
SUBJECT: Application for Correction of Military Records


Applicant's entire case file has been reviewed and is forwarded with the following findings, conclusions and recommendations.

The applicant was retired on 30 November 1993 after having served twenty years of active military service. He now applies requesting his DD Form 214 (Certificate of Release or Discharge from Active Duty) be corrected to show all dental work was not completed within 90 days of retirement.

Review of dental records reveals the applicant had a dental appointment in October 1993, the month prior to retirement, but that dental care could not be completed prior to retirement. Therefore, his request is appropriate and that recommendation would have been made. However, this all occurred about three years ago. Dental, as well as any other medical condition, can seriously deteriorate within this time period if appropriate therapies are not received. The fact that applicant now requests follow up care is considered inappropriate. As is noted in the dental records, this is complex care which may have significantly gotten worse over the years. For this reason and this reason alone, the Medical Consultant recommends this be disapproved.

The Medical Consultant therefore concludes that the Dental Clinic was unable to provide complete dental care which is fairly well documented in the dental entry of 5 April 1995. He also concludes that since this complex care has been held in abeyance for such a long period of time, the request should be denied.


Darvin K. Suter Colonel USAF MC
Medical Consultant to the Air Force BCMR


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

6 May 96

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPAMM
550 C Street West, Suite 26
Randolph AFB TX 78150-4728

JBJE(Application for Correction of Military ~~ords~~

Applicant's entire case file has been reviewed and is forwarded with the following findings, conclusions and recommendations.

Evidence of record and medical examinations prior to separation indicate the applicant was fit and medically qualified for continued military service or appropriate separation and did not have any physical or mental condition which would have warranted consideration under the provisions of AFI 36-3212, Physical Evaluation for Retention Retirement and Separation. Reasons for discharge and discharge proceeding are well documented in the records. Action and disposition in this case are proper and reflect compliance with Air Force directives which implement the law.

The Chief of Medical Standards Branch is of the opinion that no change in the records is warranted and the application should be denied.

Norma J.C. Correa
NORMA J.C. CORREA, Col, USAF, MC
Chief, Medical Standards Branch
Directorate of Assignments

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DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

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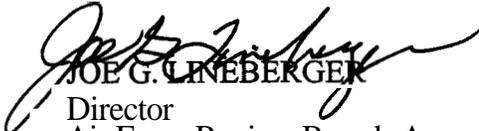
Office of the Assistant Secretary

AFBCMR 95-03389

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] [REDACTED] be corrected to show that, as an exception to policy, competent authority authorized the scheduling of his required dental treatment at the earliest practicable date, at the nearest Air Force installation to his home of selection.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency