



DEPARTMENT OF THE AIR FORCE

WASHINGTON DC

FEB 12 1999

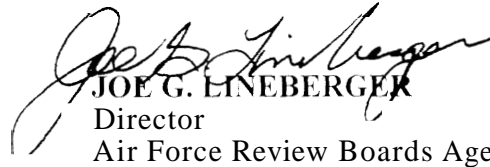
Office of the Assistant Secretary

AFBCMR 97-01941

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 ~~_____~~ be corrected to show that the period 9 May 1995 through 11 May 1995 was not lost time and all reference thereto be deleted from his records.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

FEB 12 1999

IN THE MATTER OF:

DOCKET NUMBER: 97-01941

[REDACTED]
[REDACTED]
COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His records be corrected to reflect that the period 9-11 May 1995 was not lost time.

APPLICANT CONTENDS THAT:

He was under medical care at the USAF Hospital, Tyndall AFB, during the period 9-11 May 1995.

In support of his request, applicant provided extracts from his medical records covering the period 8 through 17 May 1995 (Exhibit A).

STATEMENT OF FACTS:

Applicant contracted his initial enlistment in the Regular Air Force on 27 December 1978. He served on continuous active duty, entering his last enlistment on 1 December 1988. His highest grade held was technical sergeant.

On 2 June 1995, applicant received punishment under the provisions of Article 15, UCMJ, for absenting himself from his unit on or about 1 May 1995 until 22 May 1995, and for failing to obey a lawful order issued by MSgt S--- to initiate his return from [REDACTED] to [REDACTED] on or about 10 May 1995. Punishment consisted of forfeitures of \$450. Applicant did not appeal this action.

AF Forms 2098, Duty Status Change, reflect that effective 9 May 1995, applicant's duty status changed from leave to AWOL, and that applicant failed to return to duty after TDY and leave. Effective 12 May 1995, applicant's duty status changed from AWOL to present for duty. The unit commander determined that the period of absence from 9 May 1995 thru 11 May 1995, was lost time, for a total of three (3) days.

Medical forms provided by the applicant reflect that:

On 8 May 1995, he was seen, for chronic knee pain; he was prescribed medication and advised to follow up with flight surgeon's office at Sheppard the next week.

On 11 May 1995, at 1945 hours, he was seen for complaints of chills and body aches; he was continued on medications and advised to call next day for results.

On 12 May 1995, he was admitted to the hospital, with the diagnosis of malaria, species pending. He was discharged to convalescent leave on 17 May 1995.

The Defense Finance and Accounting Service (DFAS) provided the following status entries extracted from the applicant's pay records (Exhibit F):

19 April-8 May 95 - leave
9-11 May 95 - AWOL
12-20 May 95 - on station
21-22 May 95 - leave
23 May-10 June 95 - on station
10 June 95 - separated

On 10 June 1995, applicant was honorably discharged by reason of completion of required active service. His DD Form 214, Certificate of Release or Discharge from Active Duty, reflects lost time during the period 9 May 1995 through 11 May 1995.

Applicant enlisted in the Air National Guard on 20 December 1993, and was voluntarily ordered to active duty for a period of four years, effective 1 June 1996. He is currently serving on active duty and performing duties as an air defense technician.

The Personnel Accountability Directorate, AFPC/DPWRC, reviewed the application and recommended denial, stating the available documentation does not support applicant's request. Based on the available documentation, applicant was seen and released on both 8 and 11 May 1995. His admittance to the hospital did not take

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant stated that as he became more ill and his abilities to function became less, he had his wife advise Sheppard AFB of his condition and that he could not drive or report to duty as he had been directed. He was admitted to the hospital. When released, he

reported to Sheppard AFB as he had been directed. He attempted to explain his difficulties to the appropriate personnel, but the first sergeant would not accept the explanation and continued the lost time process.

In further support of his request, applicant provided a Quarters Authorization form reflecting placement on quarters for 72 hours, and a return to duty date of 14 May 1995 at 2200 hours. The form indicates unit notification to applicant's First Sergeant at 2140 on 11 May 1995.

Applicant's response, including a statement from his wife, is at Exhibit E.

THE EOARG CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the ~~interest~~ of justice to excuse the failure to timely file.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. It appears that during the period in question, the applicant was receiving medical care for symptoms which were later diagnosed as malaria and for which he was hospitalized. Based on the statements provided by the applicant and his wife, it appears that when the applicant's condition got worse, his wife notified his base of his condition and that he would be unable to drive or report to duty as directed. Having no reason to question their statements, it is our opinion that the applicant should not have been charged lost time for the period in question. We therefore believe that any doubt should be resolved in the applicant's favor and recommend that the records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that the period 9 May 1995 through 11 May 1995 was not lost time and all reference thereto be deleted from his records.

The following members of the Board considered this application in Executive Session on 28 May 1998 and 25 November 1998, under the provisions of AFI 36-2603:

Mr. Wayne R. Gracie, Panel Chair
Ms. Rita S. Looney, Member
Ms. Ann L. Heidig, Member

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

- Exhibit **ti.** DD Form 149, dated 19 Jun 97, w/atchs.
- Exhibit **d.** Applicant's Microfiche Master Personnel Records.
- Exhibit **C.** Letter, AFPC/DPWRC, dated 6 Nov 97.
- Exhibit **D.** Letter, SAF/MIBR, dated 24 Nov 97.
- [REDACTED]** **E.** Letter, Applicant, dated 18 Dec 97, w/atchs.
- [REDACTED]** **F.** Datafax from DFAS-DE, 24 Jun 98.
- Exhibit **G.** Letter, AFBCMR, dated 12 Jun 98.
- [REDACTED]** **H.** Letter from Applicant, dated 9 Jul 98.

Wayne R. Gracie

WAYNE E. GRACIE
Panel Chair