

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01234

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

1. He be reimbursed for 60 days of annual leave he lost upon retirement in FY04.
2. He be paid Temporary Duty (TDY) expenses he would have been paid had he used his authorized permissive TDY for house and job hunting rather than continuing to work, as well as overseas housing Permanent Change of Station (PCS) allowance he deserves for remaining in the local area until retirement.

APPLICANT CONTENDS THAT:

He was not properly reimbursed for unused annual leave he was owed at retirement. He did not use the permissive TDY he was authorized due to his reporting to duty until the day he departed his final duty station at Izmir Air Station, Turkey. Although he remained in the local area in off base quarters, he did not receive a temporary housing or PCS allowance. It is right to be reimbursed proper compensation and leave earned and not used.

In support of his request, the applicant provides copies of an SF600e, *Patient Encounter Form*, and his DD Form 214, *Certificate of Release or Discharge from Active Duty*.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant initially entered active duty on 29 Feb 84, retired on 30 Apr 04, and was credited with 20 years, 2 months, and 2 days of active duty service.

IAW AFI 36-3003, *Military Leave Program*, a one-time sell back of leave is authorized for enlisted Service members, however, such

a sell back counts towards the Service member's cap of selling back 60 days over a career.

The remaining relevant facts pertaining to this application are described in the letter prepared by the Air Force office of primary responsibility which is included at Exhibit C.

AIR FORCE EVALUATION:

AFPC/DPSIM recommends denial, indicating there is no evidence of an error or injustice. The applicant earned 17.5 days of leave during Fiscal Year 2004 (FY04). He used 16 days of ordinary leave during the period 19 Dec 03 through 3 Jan 04, and 4 days of ordinary leave during the period 12 Mar 04 through 15 Mar 04. In addition, he used 19 days of permissive TDY leave during the period 12 Apr 04 through 30 Apr 04. His permissive TDY from 12 Feb 04 through 1 Mar 04 was cancelled. He sold back the maximum of 60 days of leave in FY04. The applicant lost 8.5 days of leave upon retirement because they were not used, and could not be sold back because he had previously sold back the maximum number of days. AFI 36-3003 indicates that a member's application must clearly establish an error or injustice by the Air Force caused the member's lost leave. In this case, the member had previously sold the maximum authorized for a career, so no error existed.

A complete copy of the AFPC/DPSIM evaluation, with attachment, is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant repeats his initial contentions, and states he never received a Leave and Earnings Statement (LES) and truly cannot recollect proper payment. He mentions he also did not receive dislocation allowance, and requests proof of payment be sent to him (Exhibit E).

THE BOARD 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. Insufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. We took notice of the applicant's complete submission in judging the

merits of the case; however, we agree with the opinion and recommendation of the Air Force office of primary responsibility (OPR) and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error of injustice concerning his leave balance. Further, the Board notes the applicant submitted no evidence to substantiate his claim his final payment was in error with respect to permanent change of station related costs and allowances at the time of receipt of said payment, and submitted no such evidence with this application. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

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

The following members of the Board considered AFBCMR Docket Number BC-2012-01234 in Executive Session on 31 Aug 12, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 20 Apr 12, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, AFPC/DPSIM, dated 21 Jun 12, w/atc.
Exhibit D. Letter, SAF/MRBR, dated 26 Jul 12.
Exhibit E. Letter, Applicant, dated 20 Aug 12.

Panel Chair