

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 95-02759

JUN 12 1998

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

The Officer Performance Reports (OPRs) closing 29 February 1992 and 28 February 1993 be removed from his records.

He be reconsidered for promotion to the grade of major.

He be reinstated in the Air National Guard.

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APPLICANT CONTENDS THAT:

A substantial personality conflict existed between him and the rater. The rater's influence over the additional rater precluded the additional rater from preparing fair and impartial evaluations. The rater and additional rater placed undue emphasis on isolated incidents (conduct). Both OPRs were inconsistent with prior evaluations. During the entire time that the rater and additional rater were his supervisors, there was a substantial lack of counseling on alleged deficiencies. Finally, there was a substantial lack of observation/supervision on which to base either OPR.

In support of his request, applicant provided a copy of a draft OPR for the period 1 March 1991 thru 28 October 1991; a copy of the contested OPR covering the period 1 March 1991 thru 29 February 1992, with applicant's rebuttal comments; a copy of his letter to the President of the FY94 Reserve of the Air Force Major Selection Board; supporting statements from his immediate supervisor beginning in August 1992, and former evaluators; and a statement from the state National Guard Inspector General. (Exhibit A)

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STATEMENT OF FACTS:

On 5 June 1980, applicant was appointed as second lieutenant, Reserve of the Air Force. He was ordered to extended active duty on 27 October 1980. He served on continuous active duty and was subsequently promoted to the grade of first lieutenant. On 31 March 1984, he was honorably released from active duty and transferred to the Reserve Forces (Air National Guard). He was

credited with 3 years, 5 months and 5 days of active Federal service.

On 2 April 1984, applicant was extended Federal recognition in the Air National Guard, in the grade of first lieutenant. He was promoted to the grade of captain effective 5 June 1987.

A resume of applicant's non-EAD OERs/OPRs subsequent to his promotion to captain, as reflected in his officer selection record, follows:

<u>PERIOD OF REPORT</u>	<u>OVERALL EVALUATION</u>
1 Nov 86 - 30 Sep 87	1-1-1
1 Oct 87 - 29 Feb 88	1-1-1
1 Mar 88 - 28 Feb 89	Meets Standards
1 Mar 89 - 28 Feb 90	Meets Standards
1 Mar 90 - 28 Feb 91	Meets Standards
* 1 Mar 91 - 29 Feb 92	Does Not Meet Standards (Referral)
* 1 Mar 92 - 28 Feb 93	Meets Standards
1 Mar 93 - 7 Dec 93	Meets Standards

\* Contested reports.

Applicant was considered and nonselected for promotion by the FY94 and FY95 Reserve of the Air Force Line and Health Major Selection Boards, which convened on 1 March 1993 and 7 March 1994, respectively.

On 1 February 1994, applicant was honorably discharged from the Air National Guard and transferred to the Air Force Reserve. As a result of his second nonselection for promotion, the applicant was reassigned to the Nonaffiliated Reserve Section (NARS), effective 19 June 1994. Effective 2 September 1995, he was relieved from his assignment with HQ ARPC (NARS) and honorably discharged from all appointments in the USAF. The ANG/USAFR Point Credit Summary, prepared 6 August 1994, reflects that applicant had 12 years of satisfactory Federal service.

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AIR FORCE EVALUATION:

The Master Records Management Division, ARPC/DSMO, reviewed this application and recommended denial, stating that, although the applicant has provided favorable communications from individuals not in his rating chain for the OPRs in question, they are not convinced by the evidence provided, that these reports do not accurately portray applicant's duty performance and should be removed from his record.

If the Board disagrees, they recommended removal of the contested reports from the applicant's record, that his records be considered for promotion by a Special Review Board (SRB) in lieu of the FY94

and FY95 Reserve of the Air Force Major Boards; and, if the OPRs are removed and the applicant is promoted via SRB, he be considered for reinstatement in the Air National Guard by contacting HQ ANGRC.

The complete evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant stated that the 29 February 1992 OPR was written by individuals who were not in his unit or in his rating chain for nearly all of the reporting period. In addition, the OPR closing 28 October 1991 covers the same period of time.

The OPR closing 28 February 1993 was also written by the wrong individuals. For nearly all of the rating period, he was assigned/attached to another unit on the other side of the state. This report also contains numerous factual inaccuracies, as evidenced by the letter drafted by his supervisor (Lt Col H---) during this reporting period (letter appended at Exhibit A).

Applicant's complete response is at Exhibit E.

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ADDITIONAL AIR FORCE EVALUATION:

After a review of the applicant's rebuttal to the original advisory opinion, ARPC/DSMO recommended approval of the applicant's request. DSMO stated that although the applicant did not supply documents from individuals in the rating chain, he did include numerous letters from members whom he worked with and knew of the personality conflict between the applicant., the rater and the additional rater. They believe the applicant has provided enough documentation to cause serious doubt as to the validity of the reports. (Exhibit F)

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APPLICANT'S RESPONSE TO THE ADDITIONAL AIR FORCE EVALUATION:

A copy of the additional Air Force evaluation was provided to the applicant on 16 December 1996 for review and comment. As of this date, no response has been received by this office.

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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. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice warranting corrective action with respect to the contested OPRs. In this regard, the contents of the statements provided by the immediate supervisors during the contested rating periods, and the two evaluators who had prepared a report covering the first contested period, which was not accepted for file, causes us to question the accuracy and fairness of the contested reports. These individuals have indicated that the performance reflected in the contested reports is inconsistent with their observance of the applicant's duty performance. In addition, the Inspector General (IG) found that the report closing 29 February 1992 was not prepared by the proper officials. He further found that during the rating period ending 28 February 1993, the applicant worked under the supervision of an officer not in his normal chain of command. However, his chain of command was unwilling to relinquish rating responsibilities or to accept input from the day-to-day supervisor. Based on the foregoing, we believe that any doubt as to the accuracy and fairness of the contested reports should be resolved in applicant's favor and recommend that the contested reports be removed from his records. We further recommend that he be reconsidered for promotion to the grade of major by all boards for which the contested reports were a matter of record.

4. Applicant's request for reinstatement in the Oregon Air National Guard is noted. However, in view of the Board's limited authority with respect to reinstating an individual in the Air National Guard, we are deferring a final decision on this portion of his application pending the results of the recommended Special Review Boards.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that:

a. The Company Grade Officer Performance Report, AF Form 707B, rendered for the period 1 March 1991 through 29 February 1992, be declared void and removed from his records.

b. The Company Grade Officer Performance Report, AF Form 707B, rendered for the period 1 March 1992 through 28 February 1993, be declared void and removed from his records.

It is further recommended that he be considered for promotion to the grade of major by Special Review Boards; that his record be evaluated in comparison with the records of officers who were and were not selected by the FY94 and FY95 Reserve of the Air Force Line and Health Major Selection Boards that convened on 1 March 1993 and 7 March 1994, respectively; and that the recommendation of the Special Review Boards be forwarded to the Air Force Board for

Correction of Military Records at the earliest practicable date so that all necessary and appropriate actions may be completed.

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The following members of the Board considered this application in Executive Session on **24 April 1997**, under the provisions of AFI **36-2603**:

Mr. John L. Robuck, Panel Chair  
Mr. Kenneth L. Reinertson, Member  
Mr. Allen Beckett, Member

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

- Exhibit A. DD Form **149**, dated **16 Aug 95**, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, ARPC/DSMO, dated **2 May 96**.
- Exhibit D. Letter, SAF/MIBR, dated **20 May 96**.
- Exhibit E. Letter, Applicant, dated **16 Jun 96**.
- Exhibit F. Letter, ARPC/DSMO, dated **22 Nov 96**, w/atch.
- Exhibit G. Letter, SAF/MIBR, dated **16 Dec 96**.

  
JOHN L. ROBUCK  
Panel Chair



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

JUN 12 1998

Office of the Assistant Secretary

AFBCMR 95-02759

MEMORANDUM FOR THE CHIEF OF STAFF

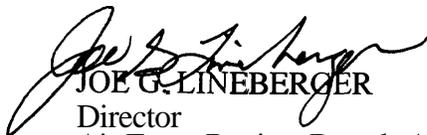
Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that:

a. The Company Grade Officer Performance Report, AF Form 707B, rendered for the period 1 March 1991 through 29 February 1992, be, and hereby is, declared void and removed from his records.

b. The Company Grade Officer Performance Report, AF Form 707B, rendered for the period 1 March 1992 through 28 February 1993, be, and hereby is, declared void and removed from his records.

It is further directed that he be considered for promotion to the grade of major by Special Review Boards; that his record be evaluated in comparison with the records of officers who were and were not selected by the FY94 and FY95 Reserve of the Air Force Line and Health Major Selection Boards that convened on 1 March 1993 and 7 March 1994, respectively; and that the recommendation of the Special Review Boards be forwarded to the Air Force Board for Correction of Military Records at the earliest practicable date so that all necessary and appropriate actions may be completed.

  
JOE G. LINEBERGER

Director  
Air Force Review Boards Agency