

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 93-02837

COUNSEL: NONE

HEARING DESIRED: NO

111.02 142.00

APPLICANT REQUESTS THAT:

His Officer Effectiveness Report (OER), rendered for the period 26 Sep 85 through 25 Sep 86, be declared void or void the ratings and comments of the indorser.

Examiner's Note: Although the applicant has not specifically identified the ratings he would like voided, it appears from his supporting documents that he is referring to Section III (Performance Factors), Item 1 (Job Knowledge).

APPLICANT CONTENDS THAT:

The indorser's ratings and comments are inaccurate and untrue. The indorser never directly observed his performance nor did he ever fly with him.

In support of his request, applicant submits statements from his former squadron commander, flight commander and supervisors (Exhibit A).

STATEMENT OF FACTS:

Applicant is currently serving on active duty in the grade of major, with a date of rank (DOR) of 1 Mar 87.

Applicant's OER/OPR profile follows:

<u>Period Ending</u>	<u>Evaluation</u>
*25 Sep 86	1-1-1
25 Sep 87	1-1-1
23 Jun 88	1-1-1
31 May 89	Meets Standards
15 Dec 89	Meets Standards
#15 Dec 90	Meets Standards
##23 Aug 91	Meets Standards
### 3 Jun 92	Meets Standards
3 Jun 93	Meets Standards

\* Contested OER (Exhibit C).

# Top report at the time he was considered and nonselected for promotion to lieutenant colonel by the CY91A (15 Apr 91) Central Lieutenant Colonel Board.

## Top report at the time he was considered and nonselected for promotion to lieutenant colonel by the CY91B (2 Dec 91) Central Lieutenant Colonel Board.

### Top report at the time he was considered and nonselected for promotion to lieutenant colonel by the CY92B (16 Nov 92) Central Lieutenant Colonel Board.

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**AIR STAFF EVALUATION:**

The Directorate of Personnel Program Management, AFMPC/DPMAJ, reviewed this application and recommended denial. They stated that this appeal is not timely since the OER closing 25 Sep 86 has been a part of the applicant's official record for over seven years. The applicant provides a statement from the additional rater of the contested report. While the additional rater supports the applicant's appeal, he confirms the applicant had some problems with flying qualifications. He also states the applicant's performance in the Mission Qualification Training (MQT) program was satisfactory. They have attached extracts of the results of a flying evaluation board conducted 8 Jun 87 which determined that the applicant failed to consistently demonstrate the proficiency required to perform duties as a combat capable RF-4C pilot between 9 Oct 85 and 26 Nov 86. This information appears to support the contested OER statement. The other statements the applicant provides support his appeal, but they are not from rating chain members, nor do they prove the contested report is inaccurate. A complete copy of this evaluation is appended at Exhibit D.

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**APPLICANT'S REVIEW OF AIR STAFF EVALUATION:**

A copy of the Air Staff evaluation was forwarded to applicant on 1 Dec 93 for review and response. As of this date, no response has been received by this office (Exhibit E).

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**FINDINGS AND CONCLUSIONS OF THE BOARD**

1. The application was not filed within three years after the alleged error or injustice was discovered, or reasonably could have been discovered, as required by Section 1552, Title 10, United States Code (10 USC 1552, and Air Force Regulation 31-3. Thus the application is untimely.

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2. Paragraph b of 10 USC 1552 permits us, in our discretion, to excuse untimely filing in the interest of justice. We have carefully reviewed applicant's submission and the entire record, and we do not find a sufficient basis to excuse the untimely filing of this application. The applicant has not shown a plausible reason for delay in filing, and we are not persuaded that the record raises issues of error or injustice which require resolution on the merits at this time. Accordingly, we conclude that it would not be in the interest of justice to excuse the untimely filing of the application.

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DECISION OF THE BOARD:

The application was not timely filed and it would not be in the interest of justice to waive the untimeliness. It is the decision of the Board, therefore, to reject the application as untimely.

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The following members of the Board considered this application in Executive Session on 9 Jun 94, under the provisions of AFR 31-3:

G. Hammond Myers, 111, Panel Chairman  
Scott W. Stucky, Member  
Joseph T. Wagner, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 14 Apr 93, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Contested Officer Effectiveness Report (OER).
- Exhibit D. Letter, AFMPC/DPMAJ, dated 5 Nov 93, w/atchs.
- Exhibit E. Letter, AFBCMR, dated 1 Dec 93.

  
G. HAMMOND MYERS, III  
Panel Chairman

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