

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

DEC 1 11998

IN THE MATTER OF:

DOCKET NUMBER: 96-01946

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

1. His Officer Selection Brief (OSB) be corrected by amending his assignment history to reflect:

a. Add: "Theater Exercise Development Planner" effective 1 April 1993.

b. Change: "SWC Action Officer" to read: "Chief, Airborne Space Applications Systems" for the period 20 January 1994 to 28 July 1995.

2. He be considered for promotion to the grade of major by Special selection Board (SSB) for the Calendar Years 1995 and 1996 (CYs 95A and 96A) Central Major Selection Boards.

In the applicant's response to the Air Force evaluations, he requests that:

1. His records be corrected to reflect reinstatement and continuous active duty with all pay and entitlements.

2. Set aside his nonselections for promotion to major.

3. He be given a direct promotion to the grade of major.

4. The AFBCMR correct his record to reflect selection to the grade of lieutenant colonel.

APPLICANT CONTENDS THAT:

He was assigned to the Space Warfare Center (SWC) for nearly ten months before he was actually "credited" with this assignment. This was not unusual at the time as several officers were assigned to the SWC for several months before the "personnel system" was updated to reflect their assignment into the SWC.

In support of his application, applicant submits a statement from the Executive Officer, Headquarters USAF Space Warfare Center who states that he was applicant's supervisor when applicant was

first assigned to the SWC. The supervisor recommends the applicant's duty titles be amended as requested.

Applicant's submission is attached at Exhibit A.

STATEMENT OF FACTS:

Available records reflect that applicant was commissioned in the U. S. Air Force on 30 May 1984 in the grade of second lieutenant and entered Undergraduate Pilot Training. He was subsequently promoted to the grade of captain effective 30 May 1988.

Applicant was considered and nonselected for promotion to the grade of major by the CY95A (5 Jun 95) and CY96A (4 Mar 96) Central Major Selection Boards. Applicant was previously considered and nonselected for promotion to the grade of major by the CY93B and CY94A selection boards below-the-promotion zone (BPZ).

Applicant's Officer Performance Report (OPR) profile is as follows:

<u>PERIOD ENDING</u>	<u>OVERALL EVALUATION</u>
10 Jun 90	Meets Standards
5 Dec 90	Meets Standards
22 Feb 91	Education/Training Report
14 Sep 91	Meets Standards
16 Jul 92	Meets Standards
16 Jul 93	Meets Standards
# 16 Jul 94	Meets Standards
1 Jun 95	Meets Standards
## 27 Dec 95	Meets Standards

Top report at time of non-selection by the CY95A Central Major Selection Board

Top report at time of non-selection by the CY96A Central Major Selection Board

Information in the Personnel Data System (PDS), as of August 1997, reveals that applicant was released from active duty on 16 September 1996 and transferred to the Air Force Reserve. However, applicant's name or military service information no longer appears in the PDS.

AIR FORCE EVALUATION:

The Chief, Reports and queries Team Directorate of Assignments, HQ AFPC/DPAIS1, states that their office has updated applicant's duty title, effective 20 January 1994, to reflect "Ch ABN Space

Application Sys". The duty history change to add the duty title for the 1 April 1993 effective date was disapproved as the applicant has no source documents that would support his request. If applicant can support his request with the proper source document, then he can reapply to have this particular duty history entry added.

A copy of the Air Force evaluation is attached at Exhibit C.

The Chief, Appeals and SSB Branch, HQ AFPC/DPPPA, states, in part, that the applicant submits a letter of support from someone outside the rating chain of any of his evaluation reports. The duty title "Ch ABN Space Application sys" appears on the applicant's OPRs closing out on 16 July 1994 and 1 June 1995. They, AFPC/DPPPA, concur that the requested duty title entry of "Theater Exercise Dev Plnr" is unfounded, as it is not supported by any documentation.

With regard to the applicant's request for SSB consideration, the applicant has not provided evidence that would suggest that he made any attempt to ensure the accuracy of his records. They recommend denial of his request for SSB consideration by the CY95A and CY96A central major selection boards.

A complete copy of the Air Force evaluation is attached at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant reviewed the Air Force Evaluations and states that the Air Force evaluations ask for "source documents" which support his position. However, they do not acknowledge the significance of the statements he (applicant) has provided, nor do they refute his comments concerning the turmoil which was apparent at AFSPC when the SWC was being opened.

APPLICANT'S ADDITIONAL CONTENTIONS:

In applicant's response to the Air Force evaluations, he makes additional contentions with respect to: Defective Selection Boards, Violation of Statute and DoD Directive; Violation of 10 USC Sections 616 and 617; Separate Board Reports not Issued in Violation of DoDD 1320.12; Board President's Role Violates DoDD Restrictions; and, Required Selection Board Procedures Ignored.

Applicant's response, with Evidentiary Support, is attached at Exhibit F.

ADDITIONAL AIR FORCE EVALUATION:

The Chief of Operations, Selection Board Secretariat, HQ AFPC/DPPB, reviewed the application and stated that in summary, they note the application--verbiage and attachments--is virtually identical to other applications received in the last few years. Like others in the past, it contains faulty logic, incorrect statements, accusations without merit, directives, statute, and regulations taken out of context, and is fully unfounded.

A complete copy of the evaluation is attached at Exhibit G.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION:

Applicant reviewed the Air Staff evaluation and provided a response which is attached at Exhibit I.

ADDITIONAL AIR FORCE EVALUATION:

The Staff Judge Advocate, HQ AFPC/JA, reviewed the application and stated that it is the opinion of HQ AFPC/JA that the application should be denied. Applicant has failed to present relevant evidence of any error or injustice warranting relief.

A complete copy of this evaluation is attached at Exhibit J.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION:

Applicant reviewed the additional Air Force evaluation and provided a response. Applicant asks the AFBCMR to correct his record to reflect selection for major - the only option which would make him whole. Applicant's response, with attachments, is attached at Exhibit L.

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 favorable consideration to a portion of applicant's requests. We note that the applicant's request to correct his officer selection brief (OSB) by updating his duty title to

reflect "Chief, Airborne Space Applications Systems" for the period 20 January 1994 to 28 July 1995, has been accomplished. However, this was not accomplished prior to the convening of the CYs 95A and 96A Central Major Selection Boards. We cannot determine whether or not this error served to preclude the applicant from being selected for promotion to the grade of major but, we do believe there was an injustice as his record did contain an error. Therefore, we recommend that his record, to include the OSBs with the correct duty history, be considered for promotion to the grade of major by special selection boards (**SSBs**) for the CYs 95A and 96A Central Major Selection Boards.

4. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice with regard to the remainder of applicant's requests. Applicant's numerous contentions concerning the statutory compliance of the central selection boards, the promotion recommendation appeal process and the legality of the special selection board (SSB) process, are duly noted. However, after a thorough review of the evidence of record and applicant's submission, we are not persuaded that the duty title, effective 1 April 1993 be added to reflect "Theater Exercise Development Planner"; his nonselections for promotion to the grade of major, by the CY95A and CY96A promotion boards be set aside; that his records be corrected to reflect reinstatement and continuous active duty since his separation; that he receive a direct promotion to the grade of major with back pay and benefits; or, that his record be corrected to reflect selection to the grade of lieutenant colonel. We do not find applicant's assertions, in and by themselves, sufficiently persuasive to override the rationale provided by the Air Force. We therefore agree with the recommendations of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has failed to sustain his burden that he has suffered either an error or an injustice. Therefore, we find no compelling basis to recommend granting the relief sought.

5. The documentation provided with this case was sufficient to give the Board a clear understanding of the issues involved and a personal appearance, with or without counsel, would not have materially added to that understanding. Therefore, the request for a hearing is not favorably considered.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, to include corrected Officer Selection Briefs (OSBs) reflecting the duty title "Chief Airborne Space Applications Systems", effective 20 January 1994, be considered

for promotion to the grade of major by Special Selection Boards (SSBs) for the Calendar Years 1995A and 1996A Central Major Selection Boards.

The following members of the Board considered this application in Executive Session on 14 October 1998, under the provisions of AFI 36-2603:

Mr. Thomas S. Markiewicz, Panel Chair
Mr. Charles E. Bennett, Member
Ms. Martha Maust, Member

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

- Exhibit A. DD Form 149, dated 2 Jul 96, w/atrch.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPAIS1, dated 29 Jul 96.
- Exhibit D. Letter, HQ AFPC/DPPPA, dated 13 Aug 96.
- Exhibit E. Letter, AFBCMR, dated 26 Aug 96.
- Exhibit F. Applicant's Letter, dated 5 Nov 96, w/atchs.
- Exhibit G. Letter, HQ AFPC/DPPB, dated 8 Jan 97.
- Exhibit H. Letter, AFBCMR, dated 27 Jan 97.
- Exhibit I. Applicant's Letter, dated 22 Mar 97, w/atchs.
- Exhibit J. Letter, HQ AFPC/JA, dated 21 Oct 97.
- Exhibit K. Letter, AFBCMR, dated 3 Nov 97.
- Exhibit L. Applicant's Letter, dated 2 Dec 97, w/atchs.


/THOMAS S. MARKIEWICZ
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

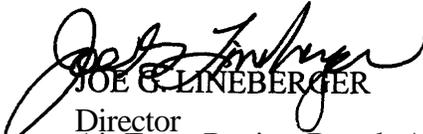
DEC 1 13998

AFBCMR 96-01946

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] to include corrected Officer Selection Briefs (OSBs) reflecting the duty title "Chief Airborne Space Applications Systems," effective 20 January 1994, be considered for promotion to the grade of major by Special Selection Boards (SSBs) for the Calendar Years 1995A and 1996A Central Major Selection Boards.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency