

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-01638

COUNSEL: NONE

NOV 27 1998

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

The Enlisted Performance Report (EPR) rendered for the period 1 August 1996 through 31 July 1997, be declared void and replaced with the reaccomplished report.

APPLICANT CONTENDS THAT:

The appropriate rater did not properly prepare and sign the contested EPR, nor has he had a formal feedback session since 1989.

In support of his appeal he submits letters from the rater and the rater's rater.

The rater's rater stated due to his lack of knowledge of the PC-III updating system the applicant changed reporting officials (CRO) to the incorrect rater. This disparity was only recently discovered, and should be corrected. He understands that as a commander he should have caught this sooner, and did not realize the repercussions of this mistake. He request the contested EPR be rescinded and replaced with the reaccomplished EPR which accurately reflects applicant's position and responsibilities.

The rater stated he was wrong to sign as the rater. He should have insisted that the commander sign as the rater since the applicant was reporting directly to him. He offers no excuses other than that he was transitioning **from** active duty to retirement, and he signed the EPR while on terminal leave.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving in the Regular Air Force in the grade of senior master sergeant.

The applicant appealed the contested report under the provisions of AFI 36-2401 and the appeal was considered and denied twice by the Evaluation Reports Appeal Board (ERAB).

EPR profile since 1992 reflects the following:

PERIOD ENDING	OVERALL EVALUATION
24 Apr 92	5
1 Mar 93	5
1 Mar 94	5
25 Nov 94	5
25 Nov 95	5
31 Jul 96	5
* 31 Jul 97	5
31 Jul 98	5

* Contested report.

AIR FORCE EVALUATION:

The Chief, Inquiries/AFBCMR Section, Enlisted Promotion & Military Testing Branch, HQ AFPC/DPPPWB, reviewed this application and states that the first time the report was considered for promotion was cycle 97E9 to chief master sergeant (promotion effective January 1998 - December 1998). Should the Board void the report in its entirety, or replace it with the report the applicant provided if otherwise eligible, the applicant will be entitled to supplemental promotion consideration beginning with cycle 97E9. They defer their recommendation to AFPC/DPPPWB.

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

The Chief, BCMR and SSB Section, Directorate of Personnel Program Management, HQ AFPC/DPPPAB, also reviewed this application and states that the applicant contends the rater who prepared the contested report made his decision to retire almost as soon as he signed into the squadron, and for all intents and purposes, the applicant states he reported directly to the squadron commander (rater's rater) on the original report. The applicant also states he and the rater occupied the same position and carried the same duty title. He further states the rater "was briefed on most issues concerning the unit...None of us were permitted to attend the Chief's Group meeting or to have input into the decision making process at that level. We work more as a team for the good of the unit during his waning months." It is their contention that since the rater was required to be in attendance at the meetings and later back-brief the applicant, it is apparent the applicant had to have reported to the rater in some capacity, however small that capacity was.

In the letter of support, dated 18 December 1997, from the squadron commander (rater's rater), he states it was his intention to have the applicant's reporting status changed to report to him, but due to confusion, the applicant was assigned to report to the rater (chief master sergeant [CMSgt]). They, note, however, the squadron commander indorsed the contested report. They question why the commander did not challenge this matter prior to the contested EPR becoming a matter of record. They also note, applicant has not provided a copy of the EPR shell that was generated when the contested EPR was to be accomplished. An EPR shell is usually prepared well enough in advance of the closeout date to make any changes in the personnel data system (PDS). These changes could have been incorporated into the contested report.

The applicant takes exception to the fact that his duty title on the contested report is the same as the rater's duty title. They note on the reaccomplished version of the EPR, a new duty title has been used which has not been explained by either the applicant, the rater, or the rater's rater. The personnel data system (PDS) does not reflect the new duty title which suggests there is no documentation to support this change. The PDS reflects the duty title as it appears on the original report. The rater's comments on the reaccomplished EPR are completely different from that of the original EPR. The applicant has not provided a statement from the new rater's rater (reaccomplished EPR). It is not known if this individual was the rater's rater when the original contested EPR was prepared. The indorser on both the contested EPR and the reaccomplished report remain the same, this individual is likewise not heard from. They would like to know why the indorser has completely rewritten his comments. None of the supporters of the applicant's appeal explain how they were hindered from rendering a fair and accurate assessment of the applicant's performance prior to the reporting made a matter of record.

The applicant contends he has not had a performance feedback session since 1989. Even though he states feedback is a non-issue. The applicant does not state whether he requested a feedback session from his rater, nor does he state he notified the rater or the rater's rater when the required feedback session did not take place. They note on the reaccomplished version of the EPR with a new evaluator's signature that the same feedback dates that were on the original report have once again been repeated. By the applicant's own admission, he was never given a performance feedback by either the rater on the contested report or by the new rater on the reaccomplished report on either of the dates identified on both versions of the EPR. In their opinion, this borders of falsification of an official document, and they believe the rater of the reaccomplished report should be required to explain the basis for certifying he conducted feedback on the dates reflected.

If the AFBCMR finds in favor of the applicant, they believe the duty title should remain the same as that on the original contested report since no explanation has been provided as to why the duty title has been changed. They do not believe the AFBCMR should take any action on this appeal until all of the issues addressed above have been resolved; i.e., an explanation regarding the different duty title, a statement from the new rater's rater, and a statement from the indorser explaining why he felt it necessary to rewrite his comments. If the applicant is able to obtain this information, we would once again like the opportunity to review and comment.

A complete copy of their evaluation is attached at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATIONS:

Copies of the Air Force evaluations were forwarded to applicant on 20 July 1998 for review and response within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After reviewing applicant's appeal, the Air Force has indicated that there are many unanswered questions as to whether or not the applicant's allegations are true. The applicant was provided a copy of this evaluation and did not provide a response. We have reviewed the evidence submitted and also share the same concerns as stated by the Air Force. In view of the above findings, we agree with the opinion and recommendation of the Air Force and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that 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 this application in Executive Session on 15 October 1998, under the provisions of AFI 36-2603:

Mr. Robert D. Stuart, Panel Chair
Mr. Henry Romo Jr., Member
Mr. Richard A. Peterson, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 11 June 1998, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPPWB, dated 25 June 1998.
- Exhibit D. Letter, HQ AFPC/DPPPAB, dated 8 July 1998.
- Exhibit E. Letter, SAF/MIBR, dated 20 July 1998.



ROBERT D. STUART
Panel Chair