



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

AFBCMR 97-01292

APR 23 1998

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 Enlisted Performance Report, AF Form 910, rendered for the period 27 June 1992 through 26 June 1993, be, and hereby is, declared void and removed from his records.

b. The attached Enlisted Performance Report, AF Form 910, rendered for the period 27 June 1992 through 26 June 1993, reflecting a Promotion Recommendation of an overall "5," be amended in Section V, Rater's Comments, to reflect a date of "30 June 1993" rather than "15 April 1997;" and that the date in Section VI, Indorser's Comments, be amended to read "30 June 1993" rather than "15 April 1997;" and that the amended report be inserted in his records in the proper sequence.

It is further directed that he be provided supplemental consideration for promotion to the grade of technical sergeant (E-6) for all appropriate cycles beginning with cycle 95A6.

If AFPC discovers any adverse factors during or subsequent to supplemental consideration that are separate and apart, and unrelated to the issues involved in this application that would have rendered the applicant ineligible for the promotion, such information will be documented and presented to the Board for a final determination on the individual's qualification for the promotion.

If supplemental promotion consideration results in the selection for promotion to the higher grade, immediately after such promotion the records shall be corrected to show that applicant

was promoted to the higher grade on the date of rank established by the supplemental promotion and that applicant is entitled to all pay, allowances, and benefits of such grade as of that date.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency

Attachment

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-01292

COUNSEL: NONE

HEARING DESIRED: YES

APR 23 1998

APPLICANT REQUESTS THAT:

The Enlisted Performance Report (EPR), for the period 27 June 1992 through 26 June 1993, be declared void and substituted with a reaccomplished EPR for the same period.

APPLICANT CONTENDS THAT:

The duty performance and work accomplishments for 1992 to 1993 do not warrant a "4" rating in Section IV (Promotion Recommendation). The rater was on temporary duty travel (TDY) during the rating period and was not fully aware of all the facts or accomplishments until after the EPR was written and processed. Due to these circumstances, the rater feels a mistake was made when a "4" rating was given. The indorser was TDY at the time of the EPR writing and left instructions for the rating to be a "5." The Commander indorsed the report only on the facts given him at that time, which were not all inclusive in the bullets of the EPR.

In support of his appeal, the applicant submits a reaccomplished EPR for the same period, a statement from the NCOIC, Production Control who indicates he supervised the applicant during 1 January through 1 June 1993, and statements from the rating chain officials.

Applicant's submission is attached at Exhibit A.

STATEMENT OF FACTS:

Applicant is currently serving in the Regular Air Force in the grade of staff sergeant (E-5).

Applicant submitted a similar appeal under AFI 36-2401 which was denied on 31 January 1997 by the Evaluation Reports Appeal Board (ERAB). The ERAB was not convinced by the applicant's documentation.

Applicant's EPR profile is as follows:

| <u>PERIOD ENDING</u> | <u>OVERALL EVALUATION</u> |
|----------------------|---------------------------|
| 26 Jun 90 | 4 |
| 26 Jun 91 | 4 |
| 26 Jun 92 | 4 |
| * 26 Jun 93 | 4 |
| 26 Jun 94 | 5 |
| 26 Jun 95 | 5 |
| 26 Jun 96 | 5 |
| 26 Jun 97 | 5 |

* Contested report

AIR FORCE EVALUATION:

The Chief, Inquiries/AFBCMR Section, Airman Promotion Branch, HQ AFPC/DPPPWB, states that the first time the contested report was considered in the promotion process was Cycle 95A6 to technical sergeant (promotions effective Aug 94 - Jul 95). Should the AFBCMR void the contested report in its entirety, upgrade the overall rating, or substitute the report as requested, providing he is otherwise eligible, applicant will be entitled to supplemental promotion consideration beginning with cycle 95A6. However, he would not become a selectee during cycles 95A6 or 95E6. He would become a selectee during the cycle 96E6 pending favorable data verification and the recommendation of the commander.

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

The Chief, AFBCMR Appeals and SSB Section, HQ AFPC/DPPPAB, states that the previous and subsequent EPRs that applicant submits are not germane to this appeal. It is accepted that performance and promotion potential can change over time.

Air Force policy is that an evaluation report is accurate as written when it becomes a matter of record. To effectively challenge an EPR, it is important to hear from the evaluators from the report--not only for support, but for clarification/explanation. The rater states he originally accomplished the EPR as a "4." He further states he has learned additional details concerning the applicant's performance, and desires to revise the narrative and upgrade the ratings on the contested report. He states a "high operational tempo" did not allow him to reaccomplish the report prior to the date of this appeal. The indorser states he concurred with a proposed narrative and "directed" the report be assigned an overall rating of "5." He now believes his written instructions directing the rater to assign a "5" must have been "misplaced." He does not

address the fact that it is not within his discretion to "direct" the rater to assign anything.

The reviewing commander states that he supported the report as (originally) written because both the rater and evaluator (indorser) concurred with the ratings annotated. The reviewing commander does not address any misplaced instructions or miscommunications between the rater and indorser. He states both the rater and indorser had initialed the report as written when he (commander) received it for final review. The reviewing commander goes on to say he has observed the applicant's performance since June 1993 and identified him as a productive and enthusiastic NCO, "who possibly could have deserved a five rating on the June 1993 report." They stress that an evaluation report is a depiction of performance and potential during the specific period of that report. Subsequent performance at a higher degree of proficiency has no bearing on the previous report's accuracy.

The explanations from the rater, indorser and commander for the requested replacement EPR do not correspond to one another. Nowhere does anyone attempt to explain how the original report was signed by the indorser with an overall "4" rating. Further, when first appealed, the proposed replacement report had a change of ratings only--no change in narrative. The latest proposed replacement report contains both upgraded ratings and revised narratives. The conflicting explanations, various versions of the contested report, and untimeliness of the appeal create a credibility deficit. They are provided no evidence the original EPR is in error or is the product of impropriety. They recommend the appeal be denied.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant states, in summary, that the statements he submitted all agree that the contested report was not written accurately and did not include specific accomplishments. He states that getting all the party's correspondence letters together seemed like an endless task. This is the only reason why the appeal took so long to formulate. Applicant states that he was judged hastily before all the facts and accomplishments were proven to the evaluators. The evaluators would like to see this injustice rectified and a true word picture of his (applicant's) performance during the specified period be put into his permanent record.

A copy of the applicant's response is attached at Exhibit F.

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. After reviewing the evidence of record and the supporting statements from the rating officials, we believe there is sufficient doubt as to the accuracy of the EPR in question. The NCOIC, Production Control states that he was the applicant's immediate supervisor and the applicant directly worked for him during the reporting period of the EPR in question. Also, at the time, the rater was the only technical sergeant in the AGE shop not reporting on any individual and upper management felt that he needed the experience on writing EPRs and assigned the applicant as his candidate. The rater states that there were significant events that should be recorded in the applicant's contested report and that the report was written as a "4" only because he (rater) was not fully aware of all of applicant's accomplishments during the reporting period. The indorser states that when he indorsed the verbiage in Section VI, he (indorser) was on temporary duty travel (TDY), as he was for most of applicant's rating period. He also states that he believed the applicant's accomplishments warranted an overall rating of "5" and left specific instructions for that to happen. Somehow through the rater's TDY commitments and the fact of being on opposite shifts from the applicant, communication lines were crossed and the message was lost. The reviewer states that when he signed the EPR in question, he was newly assigned as the commander of the [REDACTED] Maintenance Squadron. He supported the report as written because both the rater and indorser concurred with the ratings annotated. Although he only knew the applicant for one month when he signed the EPR in question, he feels the applicant has proven to be one of his best NCOs who possibly could have deserved a "5" rating on the contested report. Based on the statements provided, and the fact that the rater was unfamiliar with writing EPRs and he and the indorser were TDY for a period of time of the reporting period, we believe the contested report is not an accurate assessment of the applicant's performance. Therefore, we recommend the contested report be declared void and replaced with the reaccomplished EPR for the same period. In addition, the applicant should be considered for promotion to the grade of technical sergeant by all appropriate cycles in which the contested report was a matter of record.

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 Enlisted Performance Report, AF Form 910, rendered for the period 27 June 1992 through 26 June 1993, be declared void and removed from his records.

b. The attached Enlisted Performance Report, AF Form 910, rendered for the period 27 June 1992 through 26 June 1993, reflecting a Promotion Recommendation of an overall "5", be amended in Section V, Rater's Comments, to reflect a date of "30 June 1993" rather than "15 April 1997;" and that the date in Section VI, Indorser's Comments, be amended to read "30 June 1993" rather than "15 April 1997;" and that the amended report be inserted in his records in the proper sequence.

It is further recommended that he be provided supplemental consideration for promotion to the grade of technical sergeant (E-6) for all appropriate cycles beginning with cycle 95A6.

If AFPC discovers any adverse factors during or subsequent to supplemental consideration that are separate and apart, and unrelated to the issues involved in this application that would have rendered the applicant ineligible for the promotion, such information will be documented and presented to the Board for a final determination on the individual's qualification for the promotion.

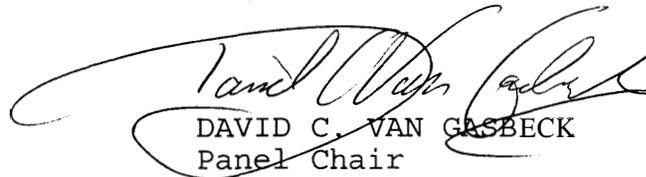
If supplemental promotion consideration results in the selection for promotion to the higher grade, immediately after such promotion the records shall be corrected to show that applicant was promoted to the higher grade on the date of rank established by the supplemental promotion and that applicant is entitled to all pay, allowances, and benefits of such grade as of that date.

The following members of the Board considered this application in Executive Session on 29 January 1998, under the provisions of AFI 36-2603:

Mr. David C. Van Gasbeck, Panel Chair
Mr. Gregory H. Petkoff, Member
Mr. Steven A. Shaw, Member

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

- Exhibit A. DD Form 149, dated 21 Apr 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPPWB, dated 30 Apr 97.
- Exhibit D. Letter, HQ AFPC/DPPPAB, dated 16 May 97.
- Exhibit E. Letter, AFBCMR, dated 2 Jun 97.
- Exhibit F. Applicant's Letter, dated 9 Jun 97.



DAVID C. VAN GASBECK
Panel Chair



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

U.S. AIR FORCE



30 APR 1997

MEMORANDUM FOR AFPCDPPPAB
AFBCMR
IN TURN

FROM: HQ AFPC/DPPPWB
550 C Street West, Ste 8
Randolph AFB TX 78150-4711

SUBJECT: Application for Correction of Military Records ~~_____~~

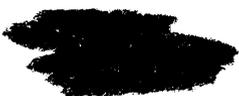
Requested Action. The applicant is requesting the AFBCMR replace his Enlisted Performance Report (EPR) closing 26 Jun 93 with the one he has included with his application. We will address the supplemental promotion consideration issue should the request be approved.

Reason for Request. Applicant believes the contested report is unjust so is requesting the reaccomplished report be made a matter of record.

Facts. See AFPC/DPPPAB Ltr.

Discussion. The first time the contested report was considered in the promotion process was Cycle 95A6 to technical sergeant (promotions effective Aug 94 - Jul 95). Should the AFBCMR void the contested report in its entirety, upgrade the overall rating, or substitute the report as requested, providing he is otherwise eligible, the applicant will be entitled to supplemental promotion consideration beginning with cycle 95A6. The applicant will not become a select during cycles 95A6 or 95E6 if the AFBCMR voids the report but would become a select during cycle 96E6 pending a favorable data verification and the recommendation of the commander.

Recommendation. We defer to the recommendation of AFPCDPPPAB.



TONY R. MERRITT
Chief, Inquiries/AFBCMR Section
Airman Promotion Branch

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS



36 MAY 1997

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPPAB
550 C Street West, Suite 8
Randolph AFB TX 78150-4710

SUBJECT: AFI 36-2603 Application- [REDACTED]

Requested Action. Applicant requests the enlisted performance report (EPR) that closed out on **26 Jun 93** be replaced **with** an upgraded **and** revised report.

Basis for Request. Applicant states the report was an inaccurate reflection of his performance during the contested rating period. He believes the rater was unaware of pertinent performance information when he originally accomplished the EPR.

Recommendation. Deny.

Facts and Comments:

a. Application is not timely. Applicant submitted **an** appeal under **AFI 36-2401**, Correcting Officer and Enlisted Evaluation Reports, which was denied by the Evaluation Report Appeal Board (ERAB). A copy of the letter announcing the ERAB's decision is included in the applicant's appeal package. We realize the AFBCMR has determined it will consider this case on its merit in accordance with *Detweiler vs. Pena*.

b. AFR **39-62**, The Enlisted Evaluation System, 1 May **89**, is the governing directive.

c. Regarding the untimeliness of this appeal, the applicant does not provide a reasonable explanation for having waited over three years to appeal the contested report. He states in his 23 Sep **96** letter that he was on temporary duty (TDY) for **450** days in the past three years, precluding him from pursuing this appeal. On his **21 Apr 97** DD Form **149**, he states he was **TDY** for 550 days. Regardless, TDY commitments are very common in the Air Force, and the applicant's situation is not uncommon. He provides no evidence he was tasked to such a degree that it prevented him from filing in a timely manner.

d. In support of his appeal, the applicant submits previous and subsequent EPRs, letters from the evaluators on the contested report, a personal brief, and letters from outside the rating chain. Previous and subsequent EPRs are not germane to this appeal. It is accepted that

9701292

performance and promotion potential can change over time. For this reason, EPRs are intended to reflect performance and potential for a specific period of time.

e. Air Force policy is that **an** evaluation report is accurate **as** written when it becomes a matter of record. It takes substantial evidence to the contrary to have a report changed or voided. To effectively challenge an EPR, it is important to hear from the evaluators from the report--not only for support, but for clarification/explanation. The applicant has provided two statements from the rater, two statements **from** the indorser, and one statement from the reviewing commander on the contested report. The rater states he originally accomplished the EPR **as** a "4." He further states he has learned additional details concerning the applicant's performance, and desires to revise the narrative and upgrade the ratings on the contested report. Last, the rater states a "high operational tempo" did not allow him to reaccomplish the report prior to the date of this appeal. The indorser states he concurred with a proposed narrative and "directed" the report be assigned an overall rating of "5." He now believes his written instructions directing the rater to assign a "5" must have been "misplaced." He does not address the fact that it is not within his discretion to "direct" the rater to assign anything.

f. The reviewing commander states "I supported the report **as** (originally) written because both the rater and evaluator (indorser) concurred with the ratings annotated." **The** reviewing commander does not address any misplaced instructions or miscommunications between the rater and indorser. He states both the rater and indorser had initialed the report, **as** written, when he received it for final review. The reviewing commander goes on to say he has observed the applicant's performance since Jun 93 and identified him **as** a productive and enthusiastic NCO, "who possibly (emphasis added) could have deserved a five rating on the Jun 93 report." We stress that an evaluation report is a depiction of performance and potential during the specific period of that report. Subsequent performance at a higher degree of proficiency has no bearing on the previous report's accuracy.

g. The explanations from the rater, indorser, and commander for the requested replacement EPR do not correspond to one another. Nowhere in this appeal package does anyone attempt to explain how the original report was signed by the indorser with an overall "4" rating. Further, when first appealed, the proposed replacement report had a change of ratings only--no change in narrative. The latest proposed replacement report contains both upgraded ratings and revised narratives.

9701292

Summary. The conflicting explanations, various versions of the contested report, and untimeliness of this appeal create a credibility deficit. We are provided no evidence the original EPR is in error or is the product of impropriety. In the absence of error or injustice, we must assume it is accurate **as** originally written. We strongly recommend denial of the applicant's request to replace the **26 Jun 93** EPR.

Joyce E. Hogan
JOYCE E. HOGAN
JOYCE E. HOGAN

Chief, BCMR Appeals and SSB Section
Dir of Personnel Program Mgt

9701292