

JUN 24 1988

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-01425

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His record be corrected to show twenty years of service with no break.

APPLICANT CONTENDS THAT:

In 1986, his personnel office mishandled his enlistment. This has created problems for him in receiving Veteran Administration Educational Benefits.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

Applicant contracted his initial enlistment on 7 September 1973. He was discharged on 5 December 1973.

On 6 December 1973, he accepted a commission as a second lieutenant.

The applicant was involved in an automobile accident on 13 July 1985, and was diagnosed with hyperthyroidism. He was placed on medical hold on 27 September 1985. While on medical hold, he was passed over for promotion twice. On 1 December 1986, he was declared medically fit for duty.

On 12 December 1986, he was released from active duty.

On 8 June 1987, the applicant was notified that he was authorized to reenlist in the Regular Air Force in the grade of staff sergeant, with the date of rank 11 September 1973, provided he did so within six months of the date of release in an officer status. In addition, the applicant was notified that the notification must be presented at an Air Force base with CBPO facilities; as the necessary authority for establishing a reenlistment date in the grade of Staff Sergeant.

On 12 June 1987, he enlisted in the Regular Air Force in the grade of Staff Sergeant.

Air Force Regulation 33-3 paragraph 3-7(h) states that an applicant must submit a letter through CBPO retirement unit to HQ AFMPC/DPMAPA requesting approval to enlist. Requests submitted after separation are sent directly to HQ AFMPC/DPMAPA but the applicant must not have more than a six month break in service.

Applicant's APR/EPR profile since 1988 follows:

<u>PERIOD ENDING</u>	<u>OVERALL EVALUATION</u>
27 Jan 88	9 (Old system)
27 Jan 89	9
27 Jan 90	4 (New system)
27 Jan 91	4
27 Jan 92	5
27 Jan 93	5

AIR FORCE EVALUATION:

The Chief, Skills Management Branch, Directorate of Personnel Program Management, reviewed this application and states that in a letter dated 1 April 1987, the applicant requested approval to enlist. The approval was granted by a letter, dated 8 June 1987, and the applicant was enlisted on 12 June 1987. Since they have no record of any request prior to 1 April 1987, they recommend denial of applicant's request.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the evaluation and states that he did not realize there was a problem with his records until he applied for Veteran Administration benefits. Retired and disabled veterans go through a lot to get minor errors corrected. He feels that he should receive benefits for which he is entitled for serving his country, nothing more or nothing less. In reference to the first paragraph of the advisory opinion, he believes his package was filed in a timely manner. On 16 February 1995, he sent a request to the National Personnel Records Center (NPRC), requesting his DD Form 214 be corrected to show no break in military service.

He states it took over a year before he received a response from his letter. He submitted a second request to NPRC and waited a month before he called the Director, who referred him to a SMSgt, who referred him to SAF/MIBR at Randolph AFB.

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

ADDITIONAL AIR FORCE EVALUATION:

The Chief, Skills Management Branch, Directorate of Personnel Program Management, reviewed this application and states that the applicant had to be discharged from his officer status before he could reenlist. The Medical Standards Branch, HQ AFPC/DPAMM, advises that members on medical hold cannot separate until they are removed from this status.

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

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant and counsel on 2 February 1998, for review and response within thirty (30) days. As of this date, no response has been received.

,THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinions and recommendations 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. We note that the applicant was placed on medical hold on 27 September 1985. He was declared medically fit for duty on 1 December 1986. He was released from active duty on 12 December 1986 and had a break in active service until 12 June 1986. The applicant requested approval to enlist in April 1987, and his request was approved on 8 June 1987. The applicant enlisted on 12 June 1987. We have no record of any

enlistment requests prior to 1 April 1987, and find no evidence that the Air Force miscounseled the applicant concerning his right to request enlistment in the Air Force. Therefore, in the absence of substantial evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

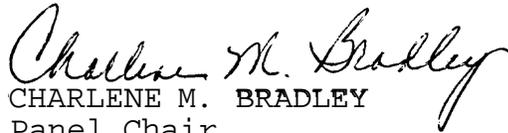
The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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

Ms. Charlene M. Bradley, Panel Chair
 Dr. Gerald B. Kauvar, Member
 Mr. Terry A. Yonkers, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 30 April 1997.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPAES, dated 22 August 1997.
- Exhibit D. Letter, SAF/MIBR, dated 8 September 1997.
- Exhibit E. Letter, Applicant, undated.
- Exhibit F. Letter, HQ AFPC/DPPAES, dated 13 January 1998.
- Exhibit G. Letter, SAF/MIBR, dated 2 February 1998.


 CHARLENE M. BRADLEY
 Panel Chair