



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

AUG 27 1999

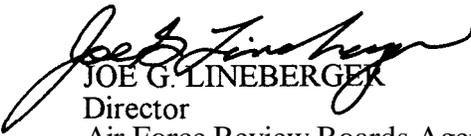
Office of the Assistant Secretary

AFBCMR 97-02724

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 competent authority approved his request to be discharged under the provisions of AFI 36-3208, paragraph 3.2, Hardship, effective 29 January 1999.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

AUG 27 1998

IN THE MATTER OF:

DOCKET NUMBER: 97-02724

COUNSEL: None

HEARING DESIRED: No

APPLICANT REQUESTS THAT:

His grade at time of enlistment into the Air Force be changed from senior airman (E-4) to staff sergeant (E-5); or, in the alternative, he be released from his current enlistment contract.

APPLICANT CONTENDS THAT:

He was previously a staff sergeant in the Air Force Reserve and at the time he was recruited for active duty, he was promised the grade of staff sergeant by the recruiter. The grade determination stated by the recruiter was based on the requirement contained in AFR 33-3, Table 3-2, Note 2. The minimum Total Active Federal Military Service (TAFMS) required for entry from the Reserve to active duty was three years. The recruiter should have been aware the requirement was changed to five years and six months in accordance with AFI 36-2002, Attachment 4. This confusion in policy placed him in a no-win situation. He could not refuse to enter active duty since he no longer had employment or a home to which to return. He cannot afford to remain on active duty in his current grade and meet his financial requirements.

Applicant's complete submission, including a statement from the recruiter, is attached at Exhibit A.

STATEMENT OF FACTS:

On 24 Jul 95, the applicant was released from the Air Force Reserve under the provisions of AFI 36-3203 (Completion of Required Active Duty Training) in the grade of staff sergeant. He was credited with 4 years, 1 month, and 26 days of active service and 4 years, 10 months, and 12 days of inactive service.

On 28 Apr 97, the applicant enlisted in the Regular Air Force (RegAF) for a period of four years in the grade of sergeant

(E-4), effective, and with a date of rank (DOR) of 28 Apr 97. He is currently serving on active duty in the grade of sergeant.

On 28 Apr 97, applicant signed AF Form 3007, Section 11, Acknowledgment and Review on Date of Enlistment, which states, in part, "...I fully understand that ANY PROMISE MADE BY ANYONE (ORAL or WRITTEN) TO ME THAT IS NOT IDENTIFIED ON THIS FORM WILL NOT BE HONORED BY THE AIR FORCE. My initials in paragraphs that apply to me and my signature below constitute my UNDERSTANDING AND ACCEPTANCE OF THIS ENLISTMENT AGREEMENT."

AIR FORCE EVALUATION:

The Chief, Skills Management Branch, AFPC/DPPAE, reviewed this application and indicated that the provisions of the current Prior Service Grade Determination policy authorize specific enlistment grades based on minimum TAFMS requirements. At the time of the applicant's 28 Apr 97 enlistment, he had five years and one day of TAFMS. Since he did not meet the minimum TAFMS requirements for enlistment grade E-5 (five years, six months), the applicant was authorized enlistment grade of E-4. This provision is included on the Enlistment Agreement, AF Form 3007, Section I, Item A, which the applicant acknowledged on the date of his enlistment. Applicant's enlistment in the RegAF in pay grade E-4, effective, and with a DOR of 28 Apr 97, is correct and in compliance with policy. DPPAE recommends denial of applicant's request for enlistment grade correction.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant reviewed the Air Force evaluation and indicated that he understands that he did not have enough TAFMS under the new regulations but it was not brought to [REDACTED] attention until the actual date of enlistment that the recruiter had in fact been quoting to [REDACTED] from the old AFR 33-3C1. It was also at this time that he had sold [REDACTED] house and both [REDACTED] and [REDACTED] had quit their jobs. [REDACTED] would not have risked taking these steps to go from the rank of staff sergeant to the rank of sergeant and the loss of a large cut in pay. [REDACTED] feels that he was misled by the recruiter who was negligent in not keeping up to date with the changes in AFR 33-3C1. Having taken all the steps to begin a new life, his only choice was to reenlist at the rank of sergeant, which was given him on the day of enlistment.

Applicant's complete response is attached at Exhibit E.

Applicant submitted two statements indicating he would like to be honorably discharged from active duty not later than 29 January 1999 due to financial reasons as well as the need to attend school in order to prepare for transition into the civilian work force (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. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After thoroughly reviewing the evidence submitted, we are not persuaded that applicant's enlistment grade should be changed. His contentions concerning being promised a higher enlistment grade are duly noted; however, we find insufficient evidence that the recruiter miscounseled applicant regarding his enlistment grade. It appears that there was some doubt regarding whether applicant would qualify for the higher enlistment grade. Although it may have initially appeared that [REDACTED] would meet the eligibility criteria for the grade of staff sergeant, it was not until his enlistment day that his entry grade was determined. We note the statement from applicant's recruiter indicating that applicant did not know for a fact what grade he would be entering active duty prior to his enlistment date. In accordance with the policies in effect at the time of his enlistment, it appears he was enlisted in the appropriate grade. Clearly, applicant understood the terms of his enlistment contract, as evidenced by his signature on the enlistment contract, acknowledging [REDACTED] grade as an E-4. In view of the foregoing, we find no compelling basis upon which to change applicant's grade at the time of his enlistment.
4. Notwithstanding the above, we believe some form of relief is warranted. In this respect, we note that applicant sold [REDACTED] home and both [REDACTED] and [REDACTED] spouse terminated their civilian employment fully believing [REDACTED] had sufficient total active federal military service to qualify for the higher enlistment grade. However, as a result of a change in policy, this was not the case as he was nearly six months short of qualifying for the higher grade. At that point, he obviously felt he had no choice but to enter in the lower grade, thereby creating a financial hardship for his family. Applicant indicates that he wishes to pursue a civilian career but needs to complete schooling before being qualified for the position he seeks. The school he wishes to attend doesn't commence until February 1999. Normally we would recommend

approval of his request to be discharged and make it effective immediately; however, we are persuaded that that would create another burden on applicant and his family. Therefore, in an effort to prevent any further hardship to applicant and his family, we recommend that his records be corrected to the extent indicated below. Applicant's request to be honorably discharged was duly noted; however, it is inappropriate for this Board to speculatively direct the characterization of applicant's discharge. We do not believe this authority should be usurped from the discharge authority.

THE BOARD RECOMMENDS THAT:

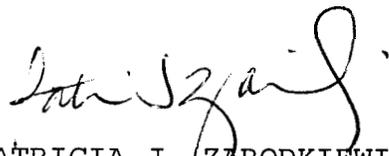
The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that competent authority approved his request to be discharged under the provisions of AFI 36-3208, paragraph 3.2, Hardship, effective 29 January 1999.

The following members of the Board considered this application in Executive Session on 14 July 1998 and 31 July 1998, under the provisions of AFI 36-2603:

Ms. Patricia J. Zarodkiewicz, Panel Chair
Mr. Loren S. Perlstein, Member
Mr. Dana J. Gilmour, Member
Mrs. Joyce Earley, Examiner (without vote)

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

- Exhibit A. DD Form 149, dated 18 Aug 97.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPPAE, dated 7 Nov 97.
- Exhibit D. Letter, AFBCMR, dated 24 Nov 97.
- Exhibit E. Letter from applicant, dated 22 Dec 97.
- Exhibit F. Fax statements from applicant, dated 30 Jul 98 and 6 Aug 98.


PATRICIA J. ZARODKIEWICZ
Panel Chair



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

U.S. AIR FORCE



07 NOV 1997

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MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPAE
550 C Street West, Ste 10
Randolph AFB TX 78150-4712

SUBJECT: Application for Correction of Military Record
[REDACTED]

The applicant requests change of enlistment grade from SrA (E-4) to SSgt (E-5) based on grade held upon discharge from the Air Force Reserve, and the contention he was miscounseled by his recruiter.

The provisions of the current Prior Service Grade Determination policy authorize specific enlistment grades based on minimum TAFMS requirements. At the time of his 28 Apr 97 enlistment, applicant had five years and one day of TAFMS. Since he did not meet the minimum TAFMS requirements for enlistment grade E-5 (five years, six months), applicant was authorized enlistment grade E-4. This provision is included on the Enlistment Agreement, AF Form 3007, Section I, Item A, which applicant acknowledged on date of enlistment.

Applicant's enlistment in the RegAF in pay grade E-4, effective and with DOR 28 Apr 97, is correct and in compliance with policy. We recommend denial of member's request for enlistment grade correction.

[REDACTED]
Chief, Skills Management Branch
Dir of Pers Program Management

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