

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-01259

COUNSEL: NONE

DEC 17 1998

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His 11 December 1999 Active Duty Service Commitment (ADSC) be declared void; that his 7 November 1999 ADSC be declared void; and, that his date of separation be established as 4 April 1999.

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APPLICANT CONTENDS THAT:

He was not informed of the ADSC prior to entering training; that the ADSCs were not briefed to him at any time during the assignment process; and, that it was not until well after his completion of training when his unit commander pursued enforcement of ADSCs for all personnel attending training that he learned of the three-year Initial Qualification Training (IQT) ADSC.

Applicant's complete statement and documentary evidence submitted in support of his application are included as Exhibit A with Attachments 1 through 23.

Applicant's commander, Colonel [REDACTED] states, in part, that during applicant's application process for this assignment, he was informed by the unit's operations officer that there was no ADSC. He was also not counseled by either his losing or gaining military personnel flight (MPF) regarding an ADSC. During his in-briefing, as his new commander, he briefed the applicant that there was no ADSC in force at that time.

During the time applicant was being assigned to [REDACTED], the unit was in the process of determining if an ADSC was authorized and in effect. AFI 36-2107, Table 1.5, Rule 8, identifies the C-29 as having a three-year commitment for initial weapon system training. The organization's previous commander did not enforce this ADSC, reasoning that because the Air Force transferred the C-29s to the FAA in 1991 and training was paid for by the FAA, there was no ADSC. In that transfer, the Air Force assigned 11 pilots and 6 enlisted crew members to [REDACTED], whose mission is to fly combat/contingency flight inspection missions using the C-29. The Air Force pays for training and testing for an Airline Transport Pilot (ATP) certificate for pilots to meet the FAA requirements for their aircraft, and the Air Force does not have productive use of those pilots while they are in training. Because of these facts,

he questioned the previous commander's interpretation and began action to clarify the ADSC status for training in the [REDACTED] aircraft. Through coordination with AFPC/DPMRIP, legal, and [REDACTED] at [REDACTED], he determined that a requirement for an ADSC for training in this aircraft did exist and that the procedures in AFI 36-2107, Para 1.9.5, regarding counseling after completing an ADSC-incurring event should be followed. Because applicant was not counseled prior to the ADSC event and was previously briefed that an ADSC did not exist, he does have some justification for his waiver request (See Attachment 6).

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STATEMENT OF FACTS:

Applicant volunteered and was selected for reassignment to [REDACTED] in June 1996 with a reporting date of 31 August 1996 which was later changed to 31 October 1996. He completed his Flight Inspection Training which equates to Initial Qualification Training (IQT) in the C-29 owned by the Federal Aviation Administration. His completion of IQT resulted in a three-year ADSC of 11 December 1999.

Applicant was subsequently ordered to attend aircraft commander upgrade training which resulted in his receiving a two-year ADSC of 7 November 1999.

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AIR FORCE EVALUATION:

HQ AFPC/DPPRS sets forth the reason for the establishment of ADSCs and advises that the onus is on the officer to prove that he unwittingly incurred an ADSC for training he would not have accepted had he been aware of the ADSC prior to entering the training. While documentation of the officer's awareness of the ADSC provides positive proof the counseling was accomplished in a timely manner and the officer voluntarily accepted the ADSC, it is not the documentation of counseling that establishes the ADSC, but rather the completion of the ADSC-incurring event which determines and incurs the ADSC. The applicable Air Force instruction recognizes that documentation is not always accomplished and yet still directs the update of the ADSC. Clearly, the intent of the Air Force is that officers make informed decisions regarding the incurring of ADSCs and the critical issue is whether adequate information is provided the officer before he or she enters into an ADSC-incurring event, not whether the officer signed any particular document to memorialize that awareness.

HQ AFPC/DPPRS further states, in part, that while applicant was briefed during training of the ADSC he was going to incur upon completion of the training, it appears that he was not briefed of his options regarding the ADSC. Moreover, had applicant been aware of the ADSC, he would not have accepted the assignment nor the

training. Nonetheless, AFPC/DPPRS recommends denial because they do not perceive that he has suffered any injustice or harm as a result of incurring the ADSC. Moreover, given the Air Force's critical need for experienced pilots, it is of vital importance to the Air Force mission to retain his services for the full tenure of his ADSC (Exhibit C).

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

In reference to the Air Force's policy that officers receive ADSCs voluntarily or elect separation, applicant asks why wasn't he given the same options? His commander told him he had five minutes to sign and accept the ADSC or to decline the ADSC and be grounded. He does not think that is the current Air Force philosophy. The onus to prove that he unwittingly incurred an ADSC for training he would not have accepted had he been aware of the ADSC prior to entering the training is on the Air Force not him. Concerning the advisory statement that the vast majority (ADSCs) have been incurred with the officers full understanding and willing acceptance, he asks does that make him the minority culpable for not being briefed much less accepting an unknown entity?

In response to the advisory statement that the Air Force has had a long-standing ADSC for C-29 IQT, applicant asks that if this is true and the ADSC has been in place so long, how come no one knew about it? If the ADSC has been in place so long, what authority does the commander have in arbitrarily deciding the start date of the ADSCs? If the ADSC has been in place so long, what criteria did they use? If the ADSC for C-29 IQT has had a "long-standing," why was he tasked to research and develop the formal process of establishing the start dates for ADSC training? It is his understanding that no pilot has ever received an ADSC for the C-29.

Concerning the statement that he was in training when enforcement of the ADSC began, but did not choose to eliminate from training at that time, and that his continuation of training after becoming aware of the ADSC constitutes his tacit acceptance of that commitment, applicant states that these statements are false and libelous. Looking at the time line he provided with this letter, it is apparent that he received his ADSC briefing for IQT on 27 July 1997, eight months after the alleged "IQT training was completed." Therefore, he was not in "IQT" when his ADSC was briefed nor could one infer that he was tacitly complacent. After the 27 July 1997 ADSC briefing, Colonel "A" specifically briefed the entire unit that the only ADSC imposed would be for the initial qualification. On 7 November 1997, he completed an FAA check ride for Airspace System Inspection Pilot which has no Air Force equivalency. Perhaps the best term to describe the check is mission qualification. The Air Force does not give ADSCs for mission qualification. After simulator training, all USAF and FAA pilots are considered fully qualified pilots in command. Therefore, he should not have been asked to sign an additional Form

63 for "upgrade in aircraft." On 6 March 1998, he was ordered by Colonel [REDACTED] to go to [REDACTED] to receive another ADSC briefing. The date of the briefing was five months after the alleged "upgrade." At no time was he ever given the opportunity to quit training or to voluntarily separate. The synopsis is, he received the first "ADSC briefing" eight months after "initial qual" and the second "ADSC briefing" five months after the Airspace System Inspection Pilot checkride. Applicant's complete statement is included as Exhibit E with Attachment 1.

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ADDITIONAL AIR FORCE EVALUATION:

In response to a verbal request from the staff for further clarification of the applicant's upgrade ADSC of 7 November 1999, HQ AFPC/DPPRR states, in part, that the applicant submitted a letter from his commander directing him to report to the MPF office to complete an AF Form 63 acknowledging the ADSC for aircraft commander upgrade training. He signed an AF Form 63 on 6 March 1998, acknowledging after the fact the two-year commitment. On the AF Form 63, applicant stated his intent to decline the ADSC associated with the upgrade training. Further, the applicant's commander himself confirmed that the member was not afforded the opportunity to state his intent prior to training. If the Board rules in the member's favor for the IQT, then the same rationale should apply for the upgrade ADSC (Exhibit F).

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ADDITIONAL COMMENTS FROM APPLICANT:

Applicant states that in order to separate from the Air Force, a member is required to give 180 days notice. If his case is granted, he would not be able to separate on the date desired because of this requirement. Therefore, he asks that his 4 April 1999 ADSC be established as his separation date (Exhibit G).

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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. HQ AFPC/DPPRR admits that, while applicant was briefed during training of the ADSC he was going to incur upon completion of the training, it appears that he was not briefed of his options regarding the ADSC. Moreover, had he been aware of the ADSC, he would not have accepted the assignment nor the training. Having said that, HQ AFPC/DPPRR goes

on to recommend denial because they do not perceive that applicant has suffered any injustice or harm as a result of incurring the ADSC. They do not consider a deferred opportunity to seek post-Air Force employment as significant harm or hardship as the applicant may claim. Moreover, given the Air Force's critical need for experienced pilots, it is believed that it is of vital importance to the Air Force mission to retain his services for the full tenure of his ADSC.

4. We understand the Air Force's critical need for experienced pilots. However, in the absence of a National emergency, we are not convinced that the needs of the service should serve to override the applicant's right to be fairly treated. HQ AFPC/DPPRR has consistently maintained that the onus is on the applicant to prove that he unwittingly incurred an ADSC for training he would not have accepted had he been aware of the ADSC prior to entering the training. Once the applicant meets this burden, HQ AFPC/DPPRR argues that he should now establish that he will suffer significant hardship or harm in order to obtain relief from an ADSC that was

~~inappropriately applied.~~ We disagree. Since the Air Force's ~~failure to adhere to its own policy~~ caused the applicant to incur the three-year C-29 IQT ADSC, equity demands that this ADSC be voided. Moreover, since he was not counseled prior to entry into the aircraft commander upgrade training and given the opportunity to voluntarily incur the two-year ADSC, this ADSC should also be voided. Lastly, since the unjust ADSCs rendered him ineligible to apply for separation from the service at the expiration of his legitimate service commitment, equity also demands that his request for establishment of a separation date be approved.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that:

a. His three-year Active Duty Service Commitment (ADSC) incurred as a result of his completion of C-29 Initial Qualification Training (IQT) and the two-year ADSC incurred as a result of his completion of aircraft commander upgrade training be declared void.

b. He applied for separation to become effective 4 April 1999 and his request was approved by competent authority.

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The following members of the Board considered this application in Executive Session on 30 October 1998 and 6 November 1998 under the provisions of AFI 36-2603:

Mr. Benedict A. Kausal IV, Panel Chair  
Mr. Charles E. Bennett, Member  
Mr. Henry Romo Jr., Member

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

- Exhibit A. DD Form 149, dated 30 April 1998, with Attachments.
- Exhibit B. Microfiche Copy of Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPRS, dated 25 June 1998.
- Exhibit D. Letter, SAF/MIBR, dated 13 July 1998
- Exhibit E. Letter from Applicant, dated 4 August 1998, with Attachment.
- Exhibit F. Letter from HQ AFPC/DPPRR, dated 5 November 1998.
- Exhibit G. Letter from Applicant, dated 6 November 1998.

  
BENEDICT A KAUSAL IV  
BENEDICT A KAUSAL IV  
Panel Chair



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

Office of the Assistant Secretary

AFBCMR 98-01259

DEC 17 1998

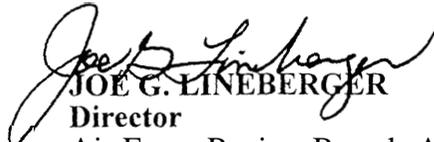
MEMORANDUM FOR THE CHIEF OF STAFF

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 De [redacted] of the Air Force relating to [redacted] be [redacted] ed to show that:

a. His three-year Active Duty Service Commitment (ADSC) incurred as a result of his completion of C-29 Initial Qualification Training (IQT) and the two-year ADSC incurred as a result of his completion of aircraft commander upgrade training be, and hereby are, declared void.

b. He applied for separation to become effective 4 April 1999 and his request was approved by competent authority.

  
JOE G. LINEBERGER  
Director  
Air Force Review Boards Agency



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

25 JUN 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPRS  
550 C St West, Ste 11  
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records - [REDACTED]

REQUESTED ACTION: [REDACTED] request his active duty service commitment (ADSC) for Initial Qualification Training (IQT) be deleted from his records.

BASIS FOR REQUEST: [REDACTED] is making this request because he was not informed of the ADSC prior to entering training. The ADSCs were not briefed to him at any time during the assignment process. It was not until well after his completion of training when his unit commander pursued enforcement of ADSCs for all personnel attending training.

FACTS:

a. The Air Force routinely assigns active duty service commitments (ADSCs) to officers as a result of training IAW AFI 36-2107, ADSC and Specified Period of Time Contracts (SPTC), dated 6 Jul 94 para 1.1 [REDACTED]. This not only provides for projections of future manning availability, but also ensures the American taxpayers are receiving a return for the investment they make in training Air Force officers.

b. Air Force policy is that officers receive these ADSCs voluntarily; if they are unwilling to accept the ADSC, they are to elect separation from the Air Force in lieu of undergoing the training. Officers are normally advised of these ADSCs in writing and their acknowledgment of their understanding and acceptance of the ADSC is normally documented in writing, on AF Form 63 (ADSC Counseling Statement). Occasionally, this procedure is not followed in exact accordance with delineated procedures. In those cases, the Air Force still awards the ADSC, as the vast majority have been incurred with the officer's full understanding and willing acceptance. The onus is on the officer to prove that he unwittingly incurred an ADSC for training he would not have accepted had he been aware of the ADSC prior to entering the training. AFI 36-2107 clearly delineates the ADSC to be incurred for each type of event. If any Air Force member was unsure of the ADSC he or she will incur, the AFI provides a ready resource of clear, unambiguous, and authoritative information.

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c. While documentation of the officer's awareness of the ADSC provides ironclad proof the counseling was accomplished in a timely manner and the officer voluntarily accepted the ADSC, it is not the documentation of counseling that establishes the ADSC, but rather the completion of the ADSC-incurring event which determines and incurs the ADSC. Indeed, the instruction recognizes that documentation is not always accomplished, and yet still directs the update of the ADSC. Clearly, the intent of the Air Force is that officers make *informed* decisions regarding the incurring of ADSCs and the critical issue is whether adequate information is provided the officer before he or she enters into an ADSC-incurring event, *not* whether the officer signed any particular document to memorialize that awareness.

c. [REDACTED] volunteered and was selected for reassignment to [REDACTED] Airport in Jun 96 with a reporting date of 31 Aug 96 which was later changed to 31 Oct 96. He completed the his Flight Inspection Training which equates to Initial Qualification Training in the C-29 owned by the Federal Aviation Administration. His completing of IQT resulted in a three year ADSC of 11 Dec 99.

#### DISCUSSION:

a. The Air Force has had a long standing ADSC for C-29 IQT. However, at the time [REDACTED] was selected for his assignment, officers assigned to Will Rogers World Airport were erroneously not awarded an ADSC for completing the C-29 IQT through the FAA, and were under the misconception that an ADSC was not applicable to the training. A new commander realized the situation and took efforts to ensure all officers completing C-29 training were given the appropriate ADSC. [REDACTED] was in training when enforcement began. According to the statement of the commander, [REDACTED] was briefed about the ADSC on 29 Jul 97. [REDACTED] did not chose to eliminate from training at that time. His continuation of training after becoming aware of the ADSC constitutes his tacit acceptance of that commitment.

b. According to the commander's investigation, he determined that while the ADSC had not been briefed or updated, the training did occur and there for the ADSC was incurred. We concur with the commander. We also note that proper advisory and documentation procedures were not accomplished resulting in the member's unwitting and unwilling incurrence of the ADSC.

#### RECOMMENDATION:

a. While [REDACTED] was briefed during training of the ADSC he was going to incur upon completion of the training, it appears that he was not briefed of his options regarding the ADSC.

b. Had [REDACTED] been aware of the ADSC, he would not have accepted the assignment nor the training.

c. We do not perceive that [REDACTED] has suffered any injustice or harm as a result of incurring the ADSC. We do not consider a deferred opportunity to seek post-Air Force employment as significant harm or hardship as the member may claim. Moreover, given

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the Air Force's critical need for experienced pilots, it is of vital importance to the Air Force mission to retain his services for the full tenure of his ADSC.

d. If you have any questions concerning the ADSC, my POC is [REDACTED]

K. F. Schwartz, Capt, USAF  
K. F. Schwartz, Capt, USAF  
CHWARTZ, Capt, U.S.  
Assistant Chief, Separations Branch  
Directorate, Personnel Programs Management



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

5 NOV 98

MEMORANDUM FOR AFBCMR

FROM: AFPC/DPPRR

SUBJECT: Advisory Addendum - [REDACTED]

In regard to [REDACTED] request to remove his "pending 7 Nov 99 ADSC" for completing aircraft commander upgrade training—we feel the ADSC is valid. Member attended training and flew upgrade missions to receive an upgrade to aircraft commander, therefore he incurs *the* associated ADSC. However in [REDACTED] case, there are several factors which must be taken into consideration:

(1) The member ~~was~~ not counseled prior to entry into the upgrade program and therefore ~~was~~ not given the opportunity to state his intent prior to entering the training program. If member had been afforded the opportunity to decline the ADSC prior to training and stated his intent at that time—his DOS under the 7-day opt policy would have been established as the Dec 99 IQT commitment—the longest ADSC on file.

(2) Member submitted a letter from his commander directing him to report to the Military Personnel Flight training office to complete an AF Form 63 acknowledging the ADSC. Note this letter postdates the member's training completion date.

(3) Member signed an AF Form 63 on 6 Mar 98, acknowledging after the fact, the two year commitment. On the AF Form 63, [REDACTED] stated his intent to decline the ADSC associated with the upgrade training.

(4) Member states in his application that he would not have attended training, had he known of the ADSC.

RECOMMENDATION

The member's commander himself confirmed that the member ~~was~~ not afforded the opportunity to state his intent prior to training. If the board ~~decides~~ in the member's favor for the initial qualification training, then the ~~same rationale should apply for the upgrade~~ same rationale should apply for the upgrade ADSC.

*Paula A. Goode*  
PAULA A. GOODE, Maj, USAF  
PAULA A. GOODE, Maj, USAF

Chief, Officer and Enlisted Retirements Section  
Directorate of Personnel Program Management

EX F