



DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

Office of the Assistant Secretary

AFBCMR 96-02026

NOV 4 1997

MEMORANDUM FOR THE CHIEF OF STAFF

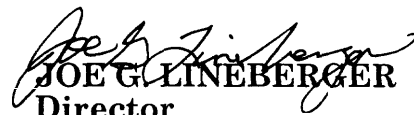
Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that the Enlisted Performance Report, AF Form 910, rendered for the period 19 July 1991 through 29 February 1992, be, and hereby is, declared void and removed from his records.

It is further directed that he be provided supplemental consideration for promotion to the grade of master sergeant for all appropriate cycles beginning with cycle 95E7.

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

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 96-02026

COUNSEL: NONE

HEARING DESIRED: NO NOV 4 1997

---

APPLICANT REQUESTS THAT:

The Enlisted Performance Report, for the period 19 July 1991 through 29 February 1992, be declared void and removed from his records.

---

APPLICANT CONTENDS THAT:

The record contains ratings and comments in Sections III, IV, V and VI which untruthfully and unjustly document his duty performance for the contested period.

In support of the applicant's appeal, he submits a statement from the rater and commander of the EPR in question.

Applicant's submission is attached at Exhibit A.

---

STATEMENT OF FACTS:

Applicant is currently serving in the Regular Air Force in the grade of technical sergeant (E-6).

Applicant submitted a similar appeal under AFR 31-11 (now AFI 36-2401) which was denied by the Airman Personnel Records Review Board (APRRB) on 4 April 1994.

Applicant's EPR profile is as follows:

<u>PERIOD ENDING</u>	<u>OVERALL EVALUATION</u>
18 Jul 90	5
18 Jul 91	4
* 29 Feb 92	4
25 Dec 92	5
25 Dec 93	4
3 Jun 94	5
3 Jun 95	5

3 Jun 96  
3 Jun 97

5  
5

\* Contested report

---

AIR FORCE EVALUATION:

The Chief, Inquiries/AFBCMR Section, Airman Promotion Branch, HQ AFPC/DPPPW, states that the first time the contested report was considered in the promotion process was cycle 95E7 to master sergeant. Should the Board void the contested report, the applicant will be entitled to supplemental promotion consideration beginning with cycle 95E7. He would not become a selectee for this cycle, but would become a selectee for the 9637 cycle pending a favorable data verification review and recommendation of the commander.

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

The Chief, BCMR and SSB Section, HQ AFPC/DPPAB, states that the letter from the rater contains comments claiming he was coerced by the indorser when he wrote the contested EPR. He states the indorser used the threat of retribution to convince him to change words in the narrative of the report and ratings on the front of the report. The reviewing commander states he is now aware of the conflict that existed between the rater and the indorser, and this awareness warrants approval of the applicant's request. He does fail to address any specific information that might lend credence to the claim of coercion.

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 all the evaluators from the report--not only for support, but for clarification/explanation. The applicant has not provided any information from the indorser on the report. While the rater supports the applicant's appeal, they have no reason to believe it reasonable that he should be able to override the opinions and assessments of the indorser, who concurred with the report as originally written. They have been provided no evidence the indorser was using any type coercion. In cases such as this, it would be appropriate for the applicant or rater to go to the Inspector General (IG) and include the IG's findings in the appeal package. The applicant has neither proven, nor specifically addressed, any error on the contested report. The report appears to have been accomplished and processed in direct accordance with Air Force policy in effect at the time it was rendered.

Regarding the applicant's statement on the front of the DD Form 149 related to his proximity to promotion, they would point out

that the effect an evaluation report has on a ratee's promotion potential is irrelevant when considering the validity of the report. The applicant also states that this appeal could also remedy a more recent "ripple" created by the contested report. As they have no way of knowing whether the applicant is referring to promotion nonselection or the Article 15 he received in July 1993, they have no way to assess this statement. While the charges made by the rater and the reviewing commander in this appeal are quite serious, the issue was not addressed through the appropriate Air Force channels as would be the response to such a situation by any reasonably responsible Air Force member. They recommend the applicant's request be denied.

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

---

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant's states, in summary, that the rater's signed letter is proof of injustice in this case. His letter, unlike the original EPR, was signed without a threat of coercion and must, therefore, be considered more truthful. The reviewing commander's signed letter also proves injustice. He testifies that his original concurrence with the EPR was made with false belief that the rater and indorser had concurring opinions of his (applicant's) performance. While the advisory opinion cites a need to hear from all the evaluators from the report, an attempt to contact the indorser in 1994 (after his retirement) resulted in no response.

The Air Force evaluation states that "In cases like this, it would be appropriate for the applicant or rater to go to the IG and include the IG's findings in the appeals package." However, the Air Force Instruction (AFI), Attachment 14, "Inspector General Complaints" explains that the IG Complaints Program does not generally handle matters that are covered under other AFIs or directives. That attachment also lists "Appeal of an EPR" as a type of complaint covered under other AFIs.

The Enlisted Evaluation System has two stated objectives. First, it provides airmen with honest, periodic performance feedback so they will know what the Air Force and their supervisors expect. Second, it provides an official record of performance as viewed by officials in the rating chain who are closest to the actual work environment. The contested report fails to fulfill either of these objectives and should be voided.

A copy of the applicant's response, with attachments, is attached at Exhibit E.

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 documentation submitted with this application, we believe there is some doubt as to whether the contested report is an accurate assessment of applicant's performance during the period in question. This doubt is supported by a statement submitted by the rater who indicates that he was under duress from the indorser and was made to change markings and, change or delete certain words on the contested report or expect retribution. It appears that applicant's commander, who signed the EPR in question, was not aware of the disagreement between the rater and indorser. **As** he indicates in his statement in support of the applicant, had he been aware that the indorser had put undue pressure on the rater, he would have intervened and counseled the indorser that if he had a disagreement with the rater, he should have non-concurred and not forced the rater to give a rating he felt unjustified. In view of the foregoing and in an effort to offset any possibility **of** an injustice, we recommend the EPR in question be declared void and removed from the applicant's records. In addition, applicant should be considered for promotion to the grade of master sergeant (E-7) 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 the Enlisted Performance Report, AF Form 910, rendered for the period 19 July 1991 through 29 February 1992, be declared void and removed from his records.

It is further recommended that he be provided supplemental consideration for promotion to the grade of master sergeant for all appropriate cycles beginning with cycle 95E7.

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 26 August 1997, under the provisions of AFI 36-2603:

Mr. Robert D. Stuart, Panel Chairman  
Ms. Dorothy P. Loeb, Member  
Mr. Gary Appleton, Member

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

- Exhibit A. DD Form 149, dated 4 Jul 96, w/atchs.
- Exhibit B. Letter, HQ AFPC/DPPPWB, dated 25 Jul 96.
- Exhibit C. Letter, HQ AFPC/DPPAB, dated 13 Aug 96, w/atch.
- Exhibit D. Letter, AFBCMR, dated 26 Aug 96.
- Exhibit E. Applicant's Letter, dated 6 Sep 96, w/atchs.



ROBERT D. STUART  
Panel Chairman