

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

[REDACTED]

[REDACTED]

DOCKET NUMBER: 97-01019

COUNSEL: NONE

HEARING DESIRED: NO

FEB 19 1999

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APPLICANT REQUESTS THAT:

1. The Officer Performance Reports (OPRs) rendered for the periods 1 July 1992 through 30 June 1993 and 1 July 1993 through 30 June 1994, be declared void and replaced with reaccomplished reports covering the same periods.
2. He be considered for promotion to the grade of lieutenant colonel by Special Selection Boards (SSBs) for the Calendar Years 1995 (CY95A) and 1996 (CY96A) lieutenant colonel boards.

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APPLICANT CONTENDS THAT:

1. The contested OPRs were completed in an administratively substandard and significantly delective manner in regard to his actual work efforts, activities, achievement, and performance. He states that this significantly misrepresented his performance, abilities, and potential for promotion and advancement.
2. He was not given any feedback on these reports and was unaware of the substandard nature until his nonselection for promotion to the grade of lieutenant colonel. He states he had faith in the system that his strong work ethic, effort, and performance would be reflected and fare him well as it always had in the past.
3. The contested reports were in his official record for both CY95 and **CY96** Lieutenant Colonel **MC** Promotion Boards at which he was nonselected and feedback from senior officer mentors indicates the reports were significant contributors toward nonselection.
4. Promotion Recommendation Forms (PRFs) submitted to these same selection boards contained outright erroneous and potentially confusing statements. He states that these PRF errors placed his activities out of chronological order creating confusion regarding his medical career path.

5. Promotion Reports on Individual Personnel (RIPs) did not contain important and vital information regarding his background, despite prior presence and/or repetitive document submission through appropriate administrative channels. He states the omitted/deleted items included accession/commission through U.S. Naval Academy graduation, prior Navy/Marine Corps flight training and aviation rating, educational attainment of M.D. degree, specialty medical board qualification/certification, in dermatology, and completion of the USAF Aerospace Medicine Primary (AMP) course/USAF Flight Surgeon aeronautical rating. He states that these items all contributed to an erroneous and significantly deletive portrayal of his achievements, abilities, and potential for advancement within his official record presented to both CY95 and CY96 lieutenant colonel promotion boards with unquestionable contribution toward his nonselection for promotion.

6. He did not have a fair chance at advancement given this situation in which his senior leadership dropped the ball and let him down.

In support of the appeal, applicant submits a personal statement, statements from the rater, who states that he was terribly overburdened in his own duties causing him to spend an inadequate amount of time to research and prepare the contested OPRs.. He also states that he was given no instruction in the proper and appropriate completion of subordinate OPRs, which combined with his foreign national background and subsequent suboptimal eloquence with the English language hindered the optimal completion of representative, competitive OPRs as is the case with applicant's appealed OPRs. He also submitted a statement from the additional rater who states the contested reports were significantly sparse and sketchy administratively while being partially deletive and misfocused so as to substantially misrepresent the applicant's performance, abilities, and potential for promotion and advancement.

Applicant's complete submission, with attachments, is attached at Exhibit A.

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STATEMENT OF FACTS:

The applicant submitted two similar applications under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports. The Evaluation Report Appeal Board was not convinced by the applicant's documentation on either application and denied both appeals.

Applicant was considered and not selected for promotion to the grade of lieutenant colonel by the CY95A and CY96A lieutenant colonel boards. Applicant was released from active duty on 31 July 1997.

OER profile since 1991, follows:

<u>PERIOD ENDING</u>	<u>EVALUATION OF POTENTIAL</u>
30 Jun 91	Education/Training Report
30 Jun 92	Education/Training Report
*30 Jun 93	Meets Standards
*30 Jun 94	Meets Standards
30 Jun 95	Meets Standards
30 Jun 96	Meets Standards

\* Contested reports

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AIR FORCE EVALUATION:

The Acting Chief, Appeals and SSB Branch, AFPC/DPPPA, reviewed the application and states that they do not believe the rater has a problem expressing himself in the English language. It appears the rater wrote the reports exactly as intended—he documented the applicant's performance as he saw it instead of embellishing it for a promotion board's benefit. Any report can be rewritten to be more hard hitting, to provide embellishments, or enhance the ratee's promotion potential. But the time to do that is before the report becomes a matter of record. It appears the rater wrote the reports exactly as intended; however, he does not explain how he was hindered from rendering a fair and accurate assessment of the applicant's performance prior to the report being made a matter of record. They further state that the appeals process does not exist to recreate history or enhance chances for promotion.

In reference to the applicant contending that he did not receive feedback during the contested reporting periods, they quote AFR 36-10, paragraphs 2-3a and 2-8a, stating that feedback sessions are mandatory for lieutenants and captains and optional, but encouraged for majors through colonels. Further, AFR 36-10, paragraph 2-6b(1), states the member is responsible for notifying the rater and, if necessary, the additional rater if a required or requested feedback session did not take place. Regardless, AFR 36-10, paragraph 2-11, states, "A rater's failure to conduct a required or requested feedback session will not, of itself, invalidate an OPR or PRF."

In regards to the applicant's contentions that the PRFs for the CY95A and CY96A boards contained erroneous and potentially confusing statements; they point out he has never challenged these PRFs under the provisions of AFI 36-2401. They further state that in order to successfully challenge the validity of a report, it is imperative to hear from the evaluators concerned, not necessarily for support, but at least for clarification/explanation. However, neither is heard from.

Furthermore, if the information contained on these PRFs is inaccurate, then they do not understand why the applicant did not make an effort to contact both of the evaluators and request they support him in his appeal efforts and reaccomplish the PRFs. They state the applicant's duty history supports the chronology as he contends it should be; however, without benefit of the evaluators' support, they recommend denial on this issue.

They also make reference to the applicant contending that several items on the CY95A officer selection brief were either omitted or deleted. Such as:

a. Accession/commission through US Naval Academy graduation. They state that while this information was not on the CY95A OSB, it was updated in time to be included on the CY96A OSB. See paragraph g below.

b. Prior Navy/Marine Corps flight training and aviation rating. They state, this information is not on either of the OSBs. See paragraph g below. In addition, the applicant has provided nothing to verify he made an attempt prior to either board to get this information updated in the personnel data system (PDS).

c. Education attainment of MD degree. They state, while not on the CY95A OSB, it was updated in time for inclusion on the CY96A OSB. Also, if the AFBCMR decides in favor of the applicant and grants reconsideration by either board, this information will be included on one or both of the OSBs. See paragraph g below.

d. Specialty medical board qualification/certification in dermatology. They note both OSBs indicate he is board certified. However, the certificate was not filed until 7 October 1996, just prior to the CY96A board. Even though the certificate was not on file for the CY95A board, it was in evidence before the board. Therefore, the board members were knowledgeable the applicant had been board certified which is the ultimate purpose of including this entry on the OSB. Since the board members were aware of the certification, it was factored into the promotion evaluation.

e. Completion of the 'USAF Aerospace Primary (AMP) course. They state, this course is not considered professional military educational and, therefore, would not be a valid entry on the OSB.

f. USAF flight surgeon aeronautical rating. See discussion in paragraph g below. They state, in addition, the applicant's servicing military personnel (MPF) can assist in getting this information input into the PDS.

g. Discussion. The officer preselection brief (OPB) is sent to each eligible officer several months prior to a selection board. The OPB contains data that will appear on the OSB at the central board. Written instructions attached to the OPB and

given to the officer before the central selection board specifically instruct him/her to carefully examine the brief for completeness and accuracy. If any errors are found, the OPB identifies the appropriate agency he/she must contact to ensure the information in the PDS is correct. He/she must take corrective action prior to the selection board, not after it. The instruction specifically state, "Officers will not be considered by a Special Selection Board if, in exercising reasonable diligence, the officer should have discovered the error or omission in his/her records and could have taken timely corrective action" (emphasis added). They do not support promotion reconsideration on this portion of the appeal.

They further state that each officer eligible for promotion consideration is advised of the entitlement to communicate with the board president. They verified that the applicant sent a letter to the CY95A board president, but did not send one to the CY96A board president. They point out that while they are unaware of the content of the letter to the CY95A board president, the applicant could have used this means to discuss the discrepancies in his record in not only the CY95A letter but in a letter to the CY96A board president had he elected to exercise this entitlement. Therefore, based on the evidence provided, they recommend denial on all issues. If the AFBCMR grants relief on the OPR issues, the applicant should then seek support from the senior rater and MLRB president to correct the PRFs. Without this required support, they strongly recommend denial on the PRF issues.

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

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the Air Force evaluation and states that he submits that his rater had substantial assistance in the preparation of not only the rater support letter of 29 January 1997, but also in the rewritten, requested substitute OPRs by his additional rater. He states that his additional rater presented to him upon his initial notification of nonselection for promotion his own personal feelings of responsibility, culpability, and guilt for his situation in his allowing subject OPRs to pass inappropriately into his record. He (the additional rater) presented to the applicant that he thought at the time of the applicant's review he was only in for the duration of medical school payback and therefore it wouldn't really matter what his OPRs said and thus were not worth the administrative hassle of rewriting.

He states regarding the submitted PRF inaccuracies and the critiqued lack of prior appeal and senior and management level review board (MLRB president support, he submits that these were

relatively minor discrepancies in his dilemma and not felt to be worthy of pursuing solely on their own merit.

In regards to the critique of items deleted or omitted from the Officer Selection Briefs, he states that he diligently followed directions provided within the officer preselection briefs to update his administrative record.

He further states that after twenty-three consecutive years of wearing a uniform in the service of our country and carrying a green active duty identification card while working diligently and in earnest and always conscientiously doing the right thing, his military career is suddenly and abruptly finished without the retirement which he endured for so long.

He presents this appeal as a final plea for fairness and equitable treatment consideration. He asks, is there anything out there right or just about the system.

Applicant's complete response is attached at Exhibit E.

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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. 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 opinion and recommendation 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. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

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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.

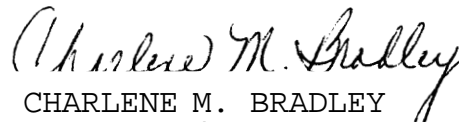
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The following members of the Board considered this application in Executive Session on 10 November 1998, under the provisions of AFI 36-2603:

Ms. Charlene M. Bradley, Panel Chair  
Mr. Kenneth L. Diamond, Member  
Mr. Terry A. Yonkers, Member  
Ms. Phyllis L. Spence, Examiner (without vote)

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 15 Mar 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPPPA dated 21 Apr 97.
- Exhibit D. Letter, AFBCMR, dated 5 May 97.
- Exhibit E. Applicant's Response, dated 2 Aug 97.

  
CHARLENE M. BRADLEY  
Panel Chair