

JAN 23 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-02681

COUNSEL: None

HEARING DESIRED: Yes

Applicant requests that the duty title on his Enlisted Performance Report (EPR) closing 13 Feb 91 be changed from Ground Radio Technician to Noncommissioned Officer In Charge (NCOIC) of Site Security and the duty title on the EPR closing 13 Feb 92 be changed from Ground Radio Equipment Technician to Land Mobile Radio Manager. Applicant's submission is at Exhibit A.

The appropriate Air Force offices evaluated applicant's request and provided advisory opinions to the Board recommending the application be denied (Exhibit C). The advisory opinions were forwarded to the applicant for review and response (Exhibit D). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinions appear to be based on the evidence of record and have not been rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. LeRoy T. Baseman, Mr. Michael P. Higgins, and Mr. Frederick R. Beaman, 111, considered this application on 20 January 1998 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.

A handwritten signature in dark ink, appearing to read "L. T. Baseman", with a stylized, flowing script.

LeROY T. BASEMAN
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinions
- D. AFBCMR Ltr Forwarding Advisory Opinions



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

11 SEP 1997

MEMORANDUM FOR AFPC/DPPPAB
AFPC/DPPAPC
AFBCMR
IN TURN

FROM: HQ AFPC/DPPPWB
550 C Street West, Ste 09
Randolph AFB TX 78150-4711

SUBJECT: Application for Correction of Military Records [REDACTED]

Requested Action. The applicant is requesting the AFBCMR correct the duty title of his Enlisted Performance Report (EPR) closing 13 Feb 91 from Ground Radio Technician to NCOIC Site Security and the duty title of the EPR closing 13 Feb 92 from Ground Radio Equipment Technician to Land Mobile Radio Manager. We will address the supplemental promotion consideration issue should the request be granted.

Reason for Request. Applicant believes the contested report is unjust because the duties described in these two EPRs were not those of a Ground Radio Technician but those of NCOIC Site Security and Land Mobile Radio Manager.

Facts. See Hq AFPC/DPPPAB Letter.

Discussion. In the Weighted Airman Promotion System (WAPS), the rating in Section IV (Promotion Recommendation), is used to determine the number of promotion points the member receives. The duty title is not a factor in crediting promotion points. Whether the duty titles are changed or not would have no impact on any previous promotion considerations or future consideration to MSgt.

Recommendation. We defer to the recommendation of Hq AFPC/DPPPAB.


TONY R. MERRITT
Chief Inquiries/AFBCMR Section
Airman Promotion Branch

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



MEMORANDUM FOR AFBCMR

15 Sep 97

FROM: HQ AFPC/DPPPAB
550 C Street West, Suite 8
Randolph AFB TX 78150-4710

SUBJECT: [REDACTED]

Requested Action. Applicant requests duty title changes on enlisted performance reports (EPR) that closed out on 13 Feb 91 and 13 Feb 92.

Basis for Request. Applicant recently reviewed the contested EPRs and now believes the duty title on these reports do not accurately reflect the duties performed during the reporting period.

Recommendation. Time Bar. If AFBCMR considers, deny due to lack of merit. By law, a claim must be filed within three years of the date of discovery of the alleged error or injustice (10 U.S.C. 1552[b]). The contested report was discoverable when it became part of the applicant's record. The applicant has provided nothing to convince us the EPR was not discoverable until 1 Mar 97 (application date), nor has he offered a reasonable explanation for filing late. While we would normally recommend the application be denied as untimely, we are aware that the AFBCMR has determined it must adhere to the decision in the case of *Detweiler v. Pena*, 38F.3d591 (D.C. Cir 1994)--which prevents application of the statute's time bar if the applicant has filed within three years of separation or retirement.

Facts and Comments:

a. Application **is** not timely. Applicant did not submit a similar appeal under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports. We did not return the application to the applicant because the contested reports are more than three years old.

b. AFR 39-62, The Enlisted Evaluation System, 1 May 89, is the governing directive.

c. In support of his appeal, the applicant submits copies of the contested reports, and a copy of **his** duty titles extracted from the Headquarters Air Force (HAF) file.

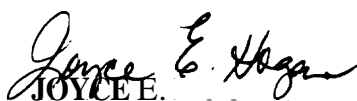
d. Air Force policy is that an evaluation report is accurate as written when it becomes a matter of record. It takes substantial evidence to the contrary to have a report changed or voided. On the EPR which closed out 13 Feb 91, the rater clearly stated that the

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applicant's additional duty title was Site Security Noncommissioned Officer in Charge (NCOIC). If this had been his primary duty, the rater would have used it as the overall duty title in Block II, Job Description. The job description on the EPR closing out on 13 Feb 92, does not specifically say anywhere that the applicant was a Land Mobile Radio Manager (**LMR**). It does, however, describe duties associated with **LMR** administration. To effectively challenge an **EPR**, it is important to hear from all the evaluators on the contested report--not only for support, but for clarification/explanation. The applicant has provided no information from the evaluators on either of the contested reports. In the absence of information from the evaluators, official substantiation of error or injustice from the Inspector General (IG) or Social Actions is appropriate, but not provided in this case. It appears the contested report was accomplished in direct accordance with Air Force policy in effect at the time it was rendered.

e. The applicant has failed to provide any evidence substantiating his claims in this case. We strongly recommend denial of his request.

Summary. Based on the evidence provided, our recommendation is appropriate.


JOYCE E.

Chief, BCMR and SSB Section
Dir of Personnel Program Mgt



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