

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-00726

COUNSEL: NONE

HEARING DESIRED: NO FEB 5 1999

APPLICANT REQUESTS THAT:

His Promotion Recommendation Form (PRF) prepared for the Calendar Year 1993A Lieutenant Colonel Board be voided.

APPLICANT CONTENDS THAT:

1. Senior rater did not discuss the officers performance with officials in the supervisory chain.
2. He did not evaluate the officers performance and assess his or her potential based on performance, IAW AFR 36-10.
3. Other officers received job titles and duty descriptions far above the duties they performed. These falsified job titles and duty descriptions were not corrected for the supplemental review of PRFs directed by HQ USAFE.
4. Officers outside the rating chain may have had inappropriate communications with the senior rater.

In support of the appeal, applicant submits a personal brief, a copy of the contested PRF, and a copy of the Evaluation Report Appeals Board (ERAB) appeal package.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving on extended active duty in the grade of major.

The applicant filed a similar appeal under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, which was denied by the ERAB 15 Apr 97.

The applicant has four nonselections for promotion to the grade of lieutenant colonel by the CY93A, CY94A, CY96C and CY97C central lieutenant colonel selection boards.

OPR profile since 1990, follows:

<u>PERIOD ENDING</u>	<u>EVALUATION OF POTENTIAL</u>
1 Jun 90	Meets Standards
1 May 91	Meets Standards
18 Nov 91	Meets Standards
16 Nov 92	Meets Standards
13 Nov 93	Meets Standards
13 Nov 94	Meets Standards
1 Jun 95	Meets Standards
30 Apr 96	Meets Standards
30 Apr 97	Meets Standards
3 Mar 98	Meets Standards

AIR FORCE EVALUATION:

The Chief, Evaluation Programs Branch, AFPC/DPPPE, reviewed the application and states that Para 4-9 of AFR 36-10 encouraged senior raters to discuss an officer's performance, if necessary, but did not require this action to be taken when preparing a PRF.

In reference to the applicant claiming the senior rater did not evaluate the officer's performance and assess his or her potential based on performance, IAW AFR 36-10; they state he bases this claim on the fact that individuals outside his chain of command reviewed his records and made suggested inputs to the senior rater for preparing the PRF. They further state, the ultimate decision on the content of the PRF rests with the senior rater. In a December 1994 USAFE/IGQ inquiry on this issue, it was noted this allegation was unsubstantiated based upon the applicant's rater's testimony that the two individuals involved were well qualified to make these suggestions based upon their daily interactions with the applicant. Applicant claims that other officers were given job titles and duty descriptions far above the duties they performed, they found this claim to be invalid. The applicant has not provided any evidence to support these allegations concerning the applicant's claim that officers outside the rating chain may have had inappropriate communication with the senior rater, they state, the USAFE/IGQ inquiry from December 1994 did in fact discover a mini-board process was used in the preparation of the of the applicant's PRF. However, the inquiry determined the senior rater himself did not hold a mini-board and was thus, not in violation of the intent of AFR 36-10. The applicant has failed to provide any new evidence to support the claim that the senior rater performed any illegal act in violation of Air Force regulations. They further state, despite the applicant's interpretation of AFR 36-10, there is no evidence

that would warrant another re-look of the applicant's CY93 PRF. By signing the applicant's PRF, the senior rater, an experienced senior officer, is stating the PRF is an accurate assessment of the applicant's potential. Therefore, they recommend denial of the applicant's request.

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

The Chief, Appeals and SSB Branch, AFPC/DPPPA, reviewed this application and states that they concur with the advisory opinion rendered by AFPC/DPPPE. They state that all of the applicant's contentions have been thoroughly addressed and they have nothing further to add.

A complete copy of their evaluation is attached at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the Air Force evaluations and advises that the senior rater was stationed at another base, in another country. It was important in the interest of fairness that the senior rater make an attempt to get to know something about those officers whose career depended upon him. In the documents provided to him by SAF/IG, there is, at no time, any indication that the senior rater made any such attempt.

He agrees that the PRF should be based on an officer's cumulative performance. However, the evidence shows that the rater based his whole decision process upon past performance without attempting to obtain an update of recent performance, an updated OPR, or International Evaluation Report.

SAF/IG may have claimed that the contention that other officers were given job titles and duty descriptions far above the duties they performed was invalid. However, he believes the evidence in the 19 December 1994 Report of Inquiry, the 20 May 1996 AF/DPX letter and the 11 June 1996 SAF/IGQ letter prove that some job title maneuvering did take place. Because the job title inequity was not corrected when the new senior rater conducted his relook of the PRFs, those that had received inflated job titles and duty descriptions continued to have an unfair advantage. He, in fact, alleged that the job title maneuvering practice was used repeatedly at his base. He also gave the inquiry officer four examples, with documentation, covering several promotion boards, but the inquiry officer's report states it was beyond the scope of this inquiry. If the inquiry officer had spent more time investigating this area, there would be no doubt.

Applicant further states that the Air Force advisory did not answer his contention that officers outside the rating chain may have had inappropriate communications with the senior rater. In response to the statement, "The applicant has failed to provide

any new evidence" ..he must emphasize that the SAF/IG, once the decision had been made to give them a PRF relook, did not pursue this case, In their 5 December 1995 letter SAF/IG specifically states that although the information you present may be factual, another inquiry is not warranted and recommends appeal to the AFBCMR. He has appealed through the Freedom of Information Act for further documentation (SAF/GCA letter dated 6 May 1998). However, except for the 19 December 1994 Report of Inquiry and the 20 May 1996 AF/DPX letter to SAF/IGQ, SAF/GCA has refused to release any further documents (except those he provided). Therefore, he knows nothing about the evidence the first inquiry uncovered, very little of the evidence the second inquiry officer uncovered, and he has been denied any opportunity to see that evidence which he might use to build his appeal.

Finally, his senior rater may not have violated any regulation. However, he did it the easy way, and in doing so, he did not provide the officers he was responsible for a fair shot, which is all he is asking for.

Applicant's complete response is attached at 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. 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 the 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.

THE BOARD DETERMINES THAT:

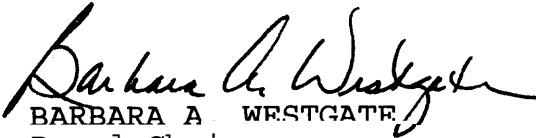
The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on **19 November 1998**, under the provisions of AFI **36-2603**:

Mrs. Barbara A. Westgate, Panel Chair
Mr. Kenneth L. Reinertson, Member
Ms. Ann L. Heidig, Member
Ms. Phyllis L. Spence, Examiner (without vote)

The following documentary evidence was considered:

Exhibit A. DD Form **149**, dated **12 Mar 98**, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, AFPC/DPPPE, dated **10 Apr 98**.
Exhibit D. Letter, AFPC/DPPPA, dated **20 Apr 98**.
Exhibit E. Letter, AFBCMR, dated **4 May 98**.
Exhibit F. Applicant's Response, dated **29 May 98**, w/atchs.


BARBARA A WESTGATE
Panel Chair