

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-01494

COUNSEL: None

16 OCT 1998

HEARING DESIRED: No

[REDACTED]
[REDACTED]

Applicant requests that the Enlisted Performance Report (EPR) rendered for the period 24 Feb 93 through 23 Oct 94 be declared void and removed from her records. Applicant's submission is at Exhibit A.

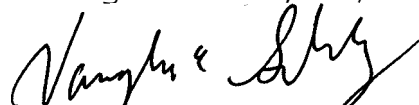
The appropriate Air Force offices evaluated applicant's request and provided advisory opinions to the Board recommending the application be denied (Exhibit C). The advisory opinions were forwarded to the applicant for review and response (Exhibit D). As of this date, no response has been received by 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 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. Vaughn E. Schlunz, Mr. Richard A. Peterson, and Mr. Patrick R. Wheeler considered this application on 29 September 1998 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.


VAUGHN E. SCHLUNZ

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

16 JUN 1998

MEMORANDUM FOR AFBCMR

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

SUBJECT: [REDACTED]

Requested Action. The applicant requests voidance of the enlisted performance report (EPR) that closed out 23 Oct 94.

Basis for Request. The applicant contends her EPR is erroneous because she got married three weeks prior to the close-out date of the report. She also believes the referral EPR will greatly impair her chances for employment in the medical field after completion of college.

Recommendation. Time bar. If the AFBCMR considers, we recommend denial. 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]). It is obvious that the errors claimed here were discoverable at the time they occurred. The applicant provided nothing to convince us that the errors were not discoverable until Mar 98, nor has she offered a concrete 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. An appeal under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, 1 Aug 97, would have been inappropriate as the report is more than three years old and the applicant separated from active duty 15 Jun 96.
- b. In support of her appeal the applicant submits an ARPC (Air Reserve Personnel Center) Form 156, Personnel Documents/Forms; a copy of the contested referral EPR; a copy of the rebuttal comments to the referral EPR; and a copy of a memorandum from 35 SUPS/LGSM.
- c. Air Force policy is that an evaluation report is accurate as written when it becomes a matter of record. To effectively challenge an EPR, it is necessary to hear from all the members of the rating chain—not only for support, but for clarification/explanation. The applicant has failed to provide any information/support from the rating chain on the contested EPR. In the

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absence of information from evaluators, official substantiation of error or injustice from the Inspector General (IG) or Social Actions is appropriate, but not provided in this case.

d. The applicant claims her name changed as a result of her marriage three weeks prior to the close-out date of her 23 Oct 94 EPR. However, she did not provide any official documentation, such as a marriage certificate, to prove when she was married, nor evidence to validate when she began the process to effect her name change in the personnel data system (PDS). Her Air Force records indicate her name change occurred in PDS 2 Nov 94, some 10 days **after** the close-out date of the report. We also note she acknowledged receipt of the referral EPR on 7 Nov 94 by signing her maiden name. Her response to the referral report was signed using her maiden name. Ten days later, on 17 Nov 94, she signed her rebuttal to the referral report using her married name. If the applicant can prove she submitted the proper documentation to effect her name change to the Military Personnel Flight (MPF) prior to the close-out date of the report, and they delayed processing her request, we recommend the Board change her name only, to reflect the name shown on the marriage certificate in accordance with the governing directive, AFI 36-2608, Military Personnel Record System, 1 Jul 96, paragraph 5.4.6. A name change is not sufficient grounds to void an entire report. The report was written in accordance with governing regulations.

e. The applicant mentions a personality conflict existed between she and her supervisor. It is common for individuals who do not perform at expected standards or who require close supervision to believe an evaluator is personally biased. However, the conflict generated by this personal attention is usually professional rather than personal. The applicant has not cited specific examples of the conflict or bias to prove her evaluator was unfavorably biased. She has also failed to provide firsthand evidence to clearly show the conflict prevented her supervisor from preparing a fair and accurate report. Letters from her evaluators would certainly clarify the relationship between her and her supervisor, however, they are conspicuously missing from her appeal package. It is apparent to us this appeal is merely an attempt to remove an undesirable report from her record in order to enhance her chances for future employment. We would be strongly opposed to the Board voiding the referral EPR.

Summary. Based on the evidence provided, our recommendation to deny voiding the report is appropriate. **As** an alternative, correcting the applicant's last name only, **as** discussed in subparagraph d above, might be appropriate if the applicant provides documentation to show she was married before the closing date of the report.


JOYCE E. HOGAN

Chief, BCMR and SSB Section
Directorate of Pers Program Mgt

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

5 JUN 1398

MEMORANDUM FOR AFPC/DPPPAB
AFBCMR
IN TURN

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

SUBJECT: Application for Correction of Military Records ~~_____~~

Requested Action. The applicant is requesting the AFBCMR void her Enlisted Performance Report (EPR) closing 23 Oct 94. We will address the promotion issue with regard to the EPR.

Reason for Request. The applicant alleges the contested EPR reflects her maiden name, not her married name. She also states it would be in her own interest to ensure the EPR and referral are discarded for they may jeopardize her opportunity to be employed in the medical field when she graduates from college.

Facts. See Hq AFPC/DPPPAB Memorandum.

Discussion.

a. The applicant enlisted 16Dec 92 in the grade of airman (E-2). The normal progression to A1C (E-3) is 10 months time-in-grade (TIG), not be ineligible for any of the reasons in AFI 36-2502, Table 1.1, and be recommended by the commander. For promotion to SrA (E-4) the eligibility requirements are 36 months total active federal military service and 20 months TIG as an A1C or 28 months TIG as an A1C (whichever condition is satisfied first), a Primary Air Force Specialty Code (PAFSC) at the 3-Skill Level, not be ineligible for any of the reasons in AFR 36-2502, Table 1.1, and be recommended by the commander. Since her enlistment grade on 16Dec 92 was Airman, she met the TIG requirement to A1C on 16 Oct 93 (10 months later) and to SrA on 16Dec 95 when she would have completed 36 months active military service and 20 months TIG. We note however, that she was not promoted to SrA until 24 Feb 96. The record does not indicate when she was promoted to A1C. Consequently, we are unable to determine which grade (A1C or SrA) was delayed.

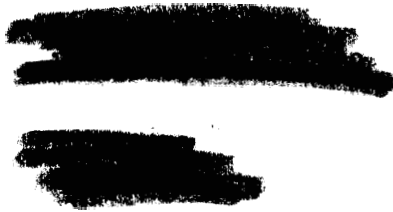
b. In the applicant's response dated 17Nov 94 to the referral EPR, she states that she realizes that 'she has a lot of reprimands in her Personal Information File (PIF) and didn't consider herself ready for promotion.' She also states that "she feels that finding me not recommended at this time would be more fair to her and her situation as she tried to improve.' It

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would appear that her promotion to SrA may have been delayed as a result of the contents of the referral EPR. However, even if the Board should remove the EPR because of an incorrect name, we do not recommend she be promoted to either A1C or SrA any earlier than she was promoted because of the contents of the EPR and her response to it dated 17Nov 94.

Recommendation. We defer to the recommendation of **Hq AFPC/DPPPAB** concerning removal of the EPR but do not recommend she be promoted to either A1C or SrA any earlier than she was promoted.


TONY R. MERRITT
TONY R. MERRITT
Chief, Inquiries/AFBCMR Section
Enlisted Promotion Branch



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