

ADDENDUM TO
RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

FEB 24 1999

IN THE MATTER OF:

DOCKET NUMBER: 93-01945

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

His Officer Performance Reports (OPRs) closing 16 Aug 89 and 28 Jun 90 be replaced with reaccomplished reports.

The Promotion Recommendation Forms (PRF) prepared for consideration by the CY91B and CY92B Lieutenant Colonel Boards, which convened on 2 Dec 91 and 16 Nov 92, be upgraded to "Definitely Promote."

His nonselections for promotion to the grade of lieutenant colonel be set aside.

He be directly promoted to the grade of lieutenant colonel as though selected by the CY91B Lieutenant Colonel Board.

RESUME OF THE CASE:

The applicant is a former Regular Air Force officer who was honorably relieved from active duty on 30 Jun 96 and retired in the grade of major, effective 1 Jul 96. He had served 20 years and 29 days on active duty.

On 12 Jul 94, the Board considered and denied a similar appeal by the applicant (see AFBCMR 93-01945, with Exhibits A through E).

APPLICANT CONTENDS THAT:

The contested report OPRs were prepared in violation of regulatory requirements.

The Management Level Evaluation Board (MLEB) used illegal procedures in the promotion recommendation process, in violation of the governing regulation.

The Air Force Selection Board process violates statute and Department of the Defense (DOD) directives.

A complete copy of the applicant's request for reconsideration is at Exhibit F.

By letter, dated 15 Nov 95, the applicant submitted additional documentary evidence for consideration (Exhibit G).

AIR FORCE EVALUATION:

Pursuant to the Board's request, the Evaluation Procedures Section, AFPC/DPPPEP, reviewed the applicant's most recent submission and provided an assessment concerning the applicant's request that his OPRs closing 16 Aug 89 and 28 Jun 90 be replaced with reaccomplished OPRs. According to DPPPEP, they performed an extremely thorough review of each point of contention and are confident in their assessment that the applicant's allegations lack merit. DPPPEP recommended that the request be denied.

A complete copy of the DPPPEP evaluation is at Exhibit H.

The Management Level Review Section, AFPC/DPPPEB, reviewed the applicant's submission and recommended denial of his request for upgrade of his PRFs. In DPPPEB's view, the new evidence provided did not substantiate his allegations or prove that he was treated unfairly by the officer evaluation system or that his record of performance was tainted.

A complete copy of the DPPPEB evaluation is at Exhibit I.

The Staff Judge Advocate, AFPC/JA, reviewed the applicant's submission and indicated that, in their view, it failed to meet the requisite criteria for reconsideration. Therefore, the application should be denied on that basis. On the merits, JA stated the applicant has failed to present relevant evidence proving the existence of any error or injustice prejudicial to his substantial rights. Accordingly, JA recommended denial.

A complete copy of the JA evaluation is at Exhibit J.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

In his response, the applicant stated in his previous submission he introduced new evidence which had not been available when he initially asked the Board for correction of his record. He has also provided even more new evidence which has come to light. All he is asking for is for a full and fair hearing on the issues in his case. He believes the evidence speaks for itself. Although the Air Force Personnel Center (AFPC) attempted to ignore the issues, their own documents prove the validity of his position on every ground for relief upon which his petition is based.

Applicant's complete response and additional documentary evidence are at Exhibit L.

THE BOARD CONCLUDES THAT:
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1. In earlier findings, we determined that there was insufficient evidence to warrant any corrective action regarding the applicant's original appeal. We have reviewed the applicant's most recent submission and we do not find it sufficient to override the rationale provided by the Air Force offices of primary responsibility (OPRs). Therefore, in the absence of sufficient evidence to the contrary, we agree with the recommendations of the OPRs and adopt their rationale as the basis for our decision that the applicant has failed to sustain his burden of establishing that he has suffered either an error or an injustice. Accordingly, we again find no compelling basis to recommend granting the relief sought in this application.

2. 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 DETERMINES THAT:
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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 14 Oct 98, under the provisions of AFI 36-2603:

Mr. Thomas S. Markiewicz, Panel Chair
Mr. Charles E. Bennett, Member
Ms. Martha Maust, Member

The following additional documentary evidence was considered:

Exhibit F. Letter, applicant, dated 2 May 95, w/atchs.
Exhibit G. Letter, applicant, dated 15 Nov 95, w/atchs.
Exhibit H. Letter, AFPC/DPPPEP, dated 8 Oct 96.
Exhibit I. Letter, AFPC/DPPPEB, dated 22 Oct 96.
Exhibit J. Letter, AFPC/JA, dated 11 Feb 97.

Exhibit k. Letter, ~~SP/MSR~~, dated 121 Feb 97, w/atchs.



THOMAS S. MARKIEWICZ
Panel Chair