

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-00791

COUNSEL: None

JAN 15 1999

HEARING DESIRED: No

APPLICANT REQUESTS THAT:

He be retroactively promoted to the grade of lieutenant colonel, as a below the zone (BPZ) candidate, by the Calendar Year 1990 (CY90) Lieutenant Colonel Board.

APPLICANT CONTENDS THAT:

HQ Air Combat Command's (ACC's) Senior Rater Review (SRR) in 1996 conducted the Calendar Year 1989 (CY89) and CY90 promotion reviews concurrently and independently. The process did not allow the results from the first board to be reviewed by the second board. Therefore, the CY90 reviewer did not have access to the revised "Definitely Promote" (DP) CY89 Promotion Recommendation Form (PRF). These procedures contradict the Air Force Regulation in effect during the original promotion cycle in question. Given the rules in effect at the time of the original board, in 1990, AFR 36-10 (C1), 1 February 1990, para. 4-10.f, previous BPZ "DP" marked PRFs were available to all senior raters and the management level presidents, as well as the central selection boards. Not making this information available under "special rules" creates an act of omission which in itself constitutes a new inappropriate procedure. This compounds the inappropriate procedures that the SRR was designed to correct. The "fair and level playing field" HQ ACC/DP refers to only applied to the review process created in 1996. He wants a "fair and level playing field" with those officers who met the original CY90 board who had previous CY89 "DP" PRFs in their records and were promoted BPZ. The "level playing field" referred to only applied to those officers meeting HQ ACC's SRR who were not selected on the previous boards in question. Based on his experience as a squadron commander and the former wing commanders he has talked to, he believes a previous BPZ "DP" PRF carries significant weight and influence on the senior rater in his decision to grant a "DP" on subsequent promotion boards. The rules at the time were designed to allow senior raters to convey

this very influence. His current record contains the revised CY89 (BPZ) "DP" PRF and the original CY91 (IPZ) "DP" PRF. **An** impartial review of his record of performance will reveal no reasonable explanation for not granting a "DP" rating on his CY90 (1 year BPZ) PRF. He does not accept the senior rater's justification for not reviewing his records to determine whether a revised CY90 (1 year BPZ) PRF was appropriate. His primary reason is "The process that I used during my tenure, however, was in strict compliance with all governing regulations, policies, and procedures." The HQ ACC/IG and HQ ACC/CC found inappropriate information or procedures were used. Since he was also the wing commander during the CY89 promotion cycle and his (applicant's) revised CY89 (2 year BPZ) PRF was changed to a "DP" rating in 1996 by ACC, he believes his statement is open to question. The senior rater also states "In my judgment, your revised CY89 PRF does not constitute a significant lack of information." At the time, BPZ PRF's marked "DP" carried significant weight on subsequent promotion boards. In summary, no senior rater, no MLRB President, no central selection board, and no special selection board has ever reviewed his CY90 (1 year BPZ) records that included the revised CY89 (2 year BPZ) PRF. Therefore, no review or consideration has ever occurred of his record of performance as constructed to appear as it would have had it met the original board at his level.

In support of the appeal, applicant submits two letters from ACC/CC, AF Form 948, Application for Correction/Removal of Evaluation Reports; Special Selection Board (SSB) Message; HQ AFPC/DPPPAB memorandum; HQ AFPC/DPPPAB SSB Consideration message; SAF/AAP SSB Results, w/atchs; Applicant's letter to ACC/DP, w/atchs; HQ ACC/DP letter to Applicant; Applicant's e-mail to HQ ACC/DPPP; HQ ACC/DPPP e-mail to applicant; Applicant's letter to Colonel D--- P--- (Senior Reviewer) w/atchs; Colonel D--- P--- letter to applicant; AFR 36-10(C1), 1 Feb 90, para 4-10.f. excerpt; and CY89 and CY90 PRFs.

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 colonel.

For the years 1989 and 1990, ACC determined inappropriate procedures were used by the senior rater of the 55th Strategic Reconnaissance Wing at Offutt AFB where the applicant was assigned. Based upon these procedures, ACC/CV appointed designated senior raters to review each affected officer's

original PRF and Record of Performance (ROP) to determine if the promotion recommendation awarded was appropriate. If a new PRF recommendation was awarded, the affected officer had the option to appeal the original PRF through the normal Air Force appeal process.

Based on the SRR review of his P0589 PRF and subsequent upgrade, the applicant was considered and not selected for promotion to the grade of lieutenant colonel by SSB for the CY89A Board.

Applicant was considered and selected in-the-promotion zone (IPZ) by the CY91A Lieutenant Colonel Board and the CY96B Colonel Selection Board.

OER/OPR profile since 1987, follows:

	PERIOD ENDING	EVALUATION OF POTENTIAL
	14 May 87	1-1-1
	07 Jun 88	Education/Training Report
	07 Jun 89	Meets Standards
	08 Jan 90	Meets Standards
#	08 Jan 91	Meets Standards
	08 Jan 92	Meets Standards
	08 Jan 93	Meets Standards
	08 Jan 94	Meets Standards
	22 Jun 94	Meets Standards
##	05 Jun 95	Education/Training Report
	05 Jun 96	Meets Standards
	05 Jun 97	Meets Standards

Top report at time of CY91A board.

Top report at time of CY96B board.

AIR FORCE EVALUATION:

The Chief, Evaluation Programs Branch, AFPC/DPPPE, reviewed the application and states that SRR ACC determined and they concurred it was inappropriate to include previous PRFs in an officer's ROP. Up until 1991, PRFs were prepared only on officers who received a "DP" rating and ACC directed its senior raters not to include comments on "promote" ratings. ACC rightly concluded that if previous PRFs were included in an officer's ROP during the SRR, the designated senior rater may have been inadvertently influenced in assigning a "new" rating. For the SRR, designated senior raters were tasked to award promotion recommendations based solely on the ROP without the PRF. These SRR rules were the most equitable for the affected officers to ensure each

officer received an unbiased evaluation of their record. The applicant appealed his SRR "Promote" rating for his CY90 PRF to ACC/CV and the appeal was denied. ACC/CV instructed the applicant to pursue an appeal on his original CY90 "Promote" PRF with his original senior rater, the wing commander of the [REDACTED] for the CY89 and 90 Central Selection Boards (CSBs). The applicant followed this avenue and his original senior rater denied the appeal. They defer to AFPC/DPPPA for a recommendation in this case.

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

The Chief, Promotion, Evaluation & Recognition Division reviewed the application and states that in his attempts to get the CY90 PRF upgraded to a "DP," the applicant contacted the senior rater and management level evaluation board (MLEB) president to request their support. Both officers have declined to provide their support as they believe the SRR "was in strict compliance with all governing regulations, policies and procedures." As such, the applicant will be unable to obtain a DP PRF for the CY90 board and, therefore, no SSB is warranted. Based on the SRR review in 1996, it was determined that the applicant's CY89 promotion recommendation should be upgraded to a DP. He was subsequently granted promotion reconsideration by that board and nonselected by the same. In his brief, the applicant makes a comment that a notification message was sent to him that he would be considered for both the CY89 and CY90 boards by SSB in November 1996. However, they have confirmed that he was not to be considered by the CY90 board as he was originally notified, and the SSB program manager advised the applicant's servicing military personnel flight on 2 October 1996 (prior to the SSB convening date) that he would not be considered by that board. This was a simple mistake - nothing more, nothing less. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice in regard to the applicant's request for direct promotion to the grade of lieutenant colonel. An officer may be qualified for promotion, but, in the judgment of a selection board - vested with the discretionary authority to make the selections - he may not be the best qualified of those available for the limited number of promotion vacancies. Absent clear-cut evidence the applicant would have been a selectee by the CY90 board, they believe a duly constituted board applying the complete promotion criteria is in the most advantageous position to render this vital determination. The board's prerogative to do so should not be usurped except under extraordinary circumstances. Further, to grant a direct promotion would be unfair to all other officers who have extremely competitive records and also did not get promoted - particularly those officers who also had their records reviewed by the SRR and did not receive a DP recommendation either. Other than his own opinions, the applicant has provided no substantiation to his allegations. The burden of proof is on

him. They do not support direct promotion. Based on the evidence provided and the assessment by HQ AFPC/DPPPE, they recommend denial of applicant's request.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the Air Force evaluations and provided specific comments. He states that for any review, his record should be reconstructed to appear as it would have had it met the original board or original senior rater review. He wants the same opportunity given to any officer who met the original board in 1990 with a previous BPZ "DP" marked PRF. This has not occurred to date. Given the rules in effect at the time of the original board in 1990, AFR 36-10 (C1), 1 February 1990, para 4-10.f, previous BPZ "DP" marked PRFs were available to all senior raters and the management level presidents, as well as the central selection boards. Not making this information available under "special rules" creates an act of omission which in itself constitutes a new inappropriate procedure. This compounds the inappropriate procedures that the SRR was designed to correct. In summary, no senior rater, no MLRB President, no central selection board, and no special selection board has ever reviewed his CY90 (1 year BPZ) records that included the revised CY 89 (2 year BPZ) PRF.

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 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.

The following members *of* the Board considered this application in Executive Session on **17 December 1998**, under the provisions of AFI **36-2603**:

- Mr. Vaughn E. Schlunz, Panel Chair
- Mr. Edward C. Koenig, II, Member
- Mr. Kenneth L. Reinertson, Member
- Ms. Gloria J. Williams, Examiner (without vote)

The following documentary evidence was considered:

- Exhibit A. DD Form **149**, dated **18 March 1998**, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPPPPE, dated **12 May 1998**.
- Exhibit D. Letter, AFPC/DPPP, dated **28 May 1998**.
- Exhibit E. Letter, AFBCMR, dated **15 June 1998**.
- Exhibit F. Applicant's Response, dated **16 June 1998**.


VAUGHN E. SCHLUNZ
Panel Chair



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

MEMORANDUM FOR SAF/MIBR

12 MAY 1998

FROM: HQ AFPC/DPPPE
550 C Street West, Ste 07
Randolph AFB TX 78150-4709

[REDACTED]

SUBJECT: Application for Correction of Military Records -
[REDACTED]

Requested Action: Applicant is requesting retroactive "Below-the-Zone" (BPZ) promotion to Lieutenant Colonel on the CY90 Central Selection Board (CSB).

Basis of Request: Applicant bases his request on the claim that his Record of Performance (ROP) as viewed by the CY90 Air Combat Command (ACC) Promotion Recommendation Form (PRF) Senior Rater Review (SRR) was incomplete.

Facts: The applicant's original "Promote" recommendation on his CY90 BPZ PRF was determined to be accurate by a designated senior rater appointed by ACC. The applicant was subsequently not awarded a Special Selection Board for possible selection below-the-zone to Lieutenant Colonel for the CY90 CSB.

Discussion: For the years 1989 and 1990, ACC determined inappropriate procedures were used by the senior rater of the [REDACTED] at [REDACTED] where the applicant was assigned. Based upon these procedures, ACC/CV appointed designated senior raters to review each affected officer's original PRF and Record of Performance (PRF) to determine if the promotion recommendation awarded was appropriate. If a new PRF recommendation was awarded, the affected officer had the option to appeal the original PRF through the normal Air Force appeal process.

For the CY89 Lieutenant Colonel CSB, the applicant's original PRF was deemed to be inappropriate and it was recommended he be awarded a "Definitely Promote." Based upon the upgrade to the CY89 PRF, the applicant is contesting the SRR accomplished on his CY90 PRF. The applicant bases his request on the fact ACC did not include his CY89 "upgraded" PRF in his ROP for the CY90 SRR. The applicant argues previous PRFs were included in an officer's ROP for the CY90 CSB (this policy was discontinued by the 1995 AF OES review). He states because the upgraded CY89 PRF was not included in his ROP, the designated senior rater was unaware of the "Definitely Promote" he received on his CY89 SRR. The applicant believes this document alone was sufficient enough to warrant a "Definitely Promote" BPZ for the CY90 CSB and subsequent selection to Lieutenant Colonel BPZ.

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For the SRR, ACC determined and we concurred it was inappropriate to include previous PRFs in an officer's ROP. Up until 1991, the rules for preparing BPZ PRFs varied within ACC. Up until 1991, PRFs were prepared only on officers who received a "Definitely Promote" rating and ACC directed its senior raters not to include comments on "P" ratings. ACC rightly concluded that if previous PRFs were included in an officer's ROP during the SRR, the designated senior rater may have been inadvertently influenced in assigning a "new" rating. For the SRR, designated senior raters were tasked to award promotion recommendations based solely on the ROP without the PRF.

These SRR rules were the most equitable for the affected officers to ensure each officer received an unbiased evaluation of their record. The applicant appealed his SRR "Promote" rating for his CY90 PRF to ACC/CV and the appeal was denied. ACC/CV instructed the applicant to pursue an appeal on his original CY90 "Promote" PRF with his original senior rater, the wing commander of the 55th Strategic Reconnaissance Wing for the CY89 and 90 CSBs. The applicant followed this avenue and his original senior rater denied the appeal.

Recommendation: We defer to DPPPA for a recommendation in this case.


DARRYL L. NALLE Col, USAF
Chief, Evaluation Programs Branch
Directorate of Personnel Program Mgt.

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

MEMORANDUM FOR AFBCMR

28 MAY 1998

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

SUBJECT: [REDACTED]

Requested Action. The applicant requests below-the-promotion zone (BPZ) promotion by the CY90 (16 Jan 90) lieutenant colonel board [REDACTED]

Basis for Request. Based on upon a senior rater review (SRR) of his previous CY89 (15 May 89) lieutenant colonel board [REDACTED] promotion recommendation form (PRF), the applicant contends the senior rater who conducted the SRR on the [REDACTED] promotion recommendation form (PRF) did not have complete information. He believes the [REDACTED] PRF should have been included in ROP for the [REDACTED] SRR.

Recommendation. We do not support direct promotion and, therefore, recommend denial. If, however, the AFBCMR determines relief is appropriate, then we recommend promotion reconsideration by the [REDACTED] board via a special selection board (SSB).

Facts and Comments.

a. The application is timely filed. Based on the SRR, a similar application was submitted under the provisions of AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, in which he appealed his [REDACTED] PRF. The applicant did not appeal under AFI 36-2401 for this current appeal. We did not return the application since he is requesting direct promotion and since he does not have the required evaluator support.

b. The governing directive is AFR 36-10, Officer Evaluation System, 1 Aug 88.

c. Promotion nonselection is not an issue. As a matter of fact, the applicant was selected in-the-promotion zone (IPZ) by the CY91A (15 Apr 91) lieutenant colonel board ([REDACTED]) and the CY96B (2 Dec 96) colonel selection board ([REDACTED]). Since his line number has not yet been reached, the applicant has not assumed the grade of colonel as of this date. Based on the SRR review of his [REDACTED] PRF and subsequent upgrade, the applicant was considered and nonselected by the [REDACTED] SSB in Nov 96.

d. HQ AFPC/DPPPE provided an advisory, dated 12 May 98. We concur with their assessment and add the following for the AFBCMR's consideration.

e. The applicant contends that due to the promotion improprieties (discussed in HQ AFPC/DPPPE's advisory) that occurred in 1996, the SRR for the [REDACTED] PRF review should have also had his [REDACTED] PRF available. If they had, he contends he would have gotten a DP on the [REDACTED] PRF.

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However, as pointed out by HQ AFPC/DPPPE, "For the SRR, ACC [Air Combat Command] determined and we concurred it was inappropriate to include previous PRFs in an officer's ROP."

f. In his attempts to get the [REDACTED] PRF upgraded to a "Definitely Promote" (DP), the applicant contacted the senior rater and management level evaluation board (MLEB) president to request their support. Both officers (see tabs 9 and 13 to appeal) have declined to provide their support as they believe the SRR "was in strict compliance with all governing regulations, policies and procedures." As such, the applicant will be unable to obtain a DP PRF for the [REDACTED] board and, therefore, no SSB is warranted.

g. Based on the SRR review in 1996, it was determined that the applicant's [REDACTED] PR should be upgraded to a DP. He was subsequently granted promotion reconsideration by that board and nonselected by same. In his brief, the applicant makes a comment that a notification message was sent to him that he would be considered for both the [REDACTED] and [REDACTED] by SSB in Nov 96. However, we have confirmed that he was not to be considered by the [REDACTED] as he was originally notified, and the SSB program manager advised the applicant's servicing military personnel flight on 2 Oct 96 (prior to the SSB convening date) that he would not be considered by that board. This was a simple mistake—nothing more, nothing less.

h. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice in regard to the applicant's request for direct promotion to the grade of lieutenant colonel. An officer may be qualified for promotion, but, in the judgment of a selection board--vested with discretionary authority to make the selections--he may not be the best qualified of those available for the limited number of promotion vacancies. Absent clear-cut evidence the applicant would have been a selectee by the [REDACTED] board, we believe a duly constituted board applying the complete promotion criteria is in the most advantageous position to render this vital determination. The board's prerogative to do so should not be usurped except under extraordinary circumstances. Further, to grant a direct promotion would be unfair to all other officers who have extremely competitive records and also did not get promoted—particularly those officers who also had their records reviewed by the SRR and did not receive a DP recommendation either. Other than his own opinions, the applicant has provided no substantiation to his allegations. The burden of proof is on him. We do not support direct promotion.

Summary. Based on the evidence provided and the assessment by HQ AFPC/DPPPE, we recommend denial.

[REDACTED]

[REDACTED] Colonel, USAF
Ch, Promotion, Evaluation & Recognition Div
Directorate of Pers Program Mgt

[REDACTED]

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