

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

JUN 12 1998

IN THE MATTER OF:

DOCKET NUMBER: 95-02481

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

An Officer Performance Report (OPR) be prepared for the period 26 May 91 through 28 Oct 92 and placed in his Officer Selection Folder (OSF), and that he be considered by a Special Review Board (SRB).

He be removed from the Retired Reserve and allowed to participate as a Category E Reservist, pending resolution of his board.

APPLICANT CONTENDS THAT:

An OPR should have been in his records so that he could have been fairly evaluated for the work he did during that period vice the blank period of time it currently reflects.

In support of his appeal, the applicant provided a personal statement, a copy of the proposed OPR, and other documents associated with the matter under review.

Applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

Applicant was appointed as a second lieutenant, Reserve of the Air Force on 6 May 72. He was voluntarily ordered to extended active duty (EAD) on 15 Aug 72. Information extracted from the Personnel Data System (PDS) indicates that he was assigned to the Air Force Reserve on 2 Jun 80. The applicant was relieved from his current assignment and assigned to the Retired Reserve Section awaiting pay on 3 Aug 93 in the grade of major. His Paydate is 6 May 72 and he is credited with 20 years, 2 months and 27 days of satisfactory Federal service. He will become eligible to receive Reserve retired pay on 28 Jul 2010.

Applicant's OER/OPR profile since 1986 follows:

<u>PERIOD ENDING</u>	<u>EVALUATION</u>
26 May 86	1-1-0 (NON-EAD)
26 May 87	1-1-1 (NON-EAD)
26 Nov 89	Meets Standards (NON-EAD)
# 26 May 91	Meets Standards (NON-EAD)

Top Report - FY93 (8 Jun 92) and FY94 (14 Jun 93) Reserve of the Air Force Line and Health Professions Lieutenant Colonel Selection Boards.

AIR STAFF EVALUATION:

The Directorate of Individual Reserve Programs, HQ ARPC/DR, reviewed this application and recommended denial. DR noted that the applicant was considered and nonselected by the FY93 and FY94 Reserve of the Air Force Line and Health Professions Lieutenant Colonel Selection Boards that convened on 8 Jun 92 and 14 Jun 93, respectively. At the time of applicant's nonselections, the applicant was a major in the United States Air Force Reserve (USAFR). According to DR, the applicant's concern is that an OPR from the Defense Logistics Agency (DLA) for the period 27 May 91 through 8 Mar 92, was not included in his Officer Selection Folder (OSF) for review, and he feels this impacted the boards' decisions. DR noted in a letter from the Office of the Secretary Legislative Liaison Office (SAF/LL) to the applicant's congressman that the DLA advised HQ ARPC's Evaluation Section that a report would not be written because there were insufficient points (16 points). According to DR, DLA would have been notified that a Directed by HAF report, waiving the point requirement, was required for the FY93 Reserve of the Air Force Line and Health Professions Lieutenant Colonel Selection Board. The report should have been written for the period 27 May 91 through 8 Mar 92. The applicant performed additional duty with the CAP, and wanted the CAP to render an OPR to cover the period in which DLA did not provide a report. However, DR indicated that the report, by Air Force policy, must be prepared by the unit of assignment. Therefore, the OPR written by the CAP cannot be accepted for file.

DR stated that after several attempts by the Evaluations Section failed to retrieve the report, an AF Form 77, Supplemental Evaluation Sheet, was filed in the applicant's OSF. The AF Form 77 indicated that the applicant was not rated and the report was not available due to administrative reasons.

DR noted that at the time the applicant met the FY94 Reserve of the Air Force Line and Health Professions Lieutenant Colonel Selection Board, his OSF included a Directed by HAF report for

the period 29 Oct 92 through 18 Mar 93. The applicant was not selected by that board.

According to DR, the applicant could have filed an application with the AFBCMR after the FY93 Lieutenant Colonel Promotion, requesting an SRB, instead of waiting to be passed over by two promotion boards. In DR's view, this would have enable him to complete the AFBCMR's action before he was transferred to the Retired Reserve on 3 Aug 93. Since the applicant was placed in the Retired Reserve as the result of being twice passed over for promotion, he cannot be removed from the Retired Reserve. Members can only be removed from the Retired Reserve if they meet the requirements for an assignment or as the result of a decision by the AFBCMR. Since he the applicant was twice passed over, he would not meet the requirements for an assignment.

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

APPLICANT'S REVIEW OF AIR STAFF EVALUATION:

Applicant indicated that the purpose of his appeal is to set his records in order so that he would be on equal plane with those who met the original board. In order for this to happen, his records need to be corrected to show that he was transferred from the DLA to the CAP effective 27 May 91. This would permit the OPR that the Air Force Liaison Officer to the New Mexico CAP generated covering that period, to be a valid OPR, since he did not train with DLA during that period and was not informed his job was being eliminated until it was too late in the cycle. The only way his performance can fairly be evaluated is by transferring him to where he really worked, the OPR from CAP be accepted, he be supplementally considered for promotion, and he be permitted to continue as a reservist until the results of the supplemental boards are released.

Applicant's complete response is at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After a review of the available evidence, we are persuaded that an OPR should have been prepared by DLA prior to the applicant's consideration for promotion to the grade of lieutenant colonel by the FY93 Reserve of the Air Force Line and Health Professions Lieutenant Colonel

Selection Board. However, DLA refused to do so. The result was that the applicant was considered by the selection board with an inaccurate record. We did note, however, that the applicant's supervisors in the CAP were willing to write an OPR for insertion in his record but were prohibited from doing so by policy. Since the applicant should have had a OPR in his record and did not, we agree that he was not fairly considered by the FY93 Reserve of the Air Force Line and Health Professions Lieutenant Colonel Board. In view of the DLA refusal to prepare a report, we believe an exception to policy should be made in this case, and the CAP should be allowed to prepare a report for insertion in the applicant's records and his records considered by SRBs in lieu of the FY93 and FY94 Reserve of the Air Force Line and Health Professions Lieutenant Colonel Selection Boards. Accordingly, we recommended that his records be corrected as indicated below.

4. We noted the applicant's request that he be removed from the Retired Reserve and allowed to participate as a Category E Reservist pending a resolution by the Board. However, the applicant was assigned to the Retired Reserve as a result of being twice passed over for promotion. Since we have no evidence that the applicant would have been selected for promotion had he been fairly considered, we believe the above recommended corrective action is the appropriate relief at this time. If it is the recommendation of an SRB that the applicant would have been promoted, we will again consider this request.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that an AF Form 707A, Field Grade Officer Performance Report (OPR), prepared for the period 27 May 91 through 28 Oct 92 by the Civil Air Patrol (provided he submits an original, completed copy of the OPR), be accepted for file in its proper sequence.

If a completed copy of the OPR is accepted for file, it is further recommended that his record be considered for promotion to the grade of lieutenant colonel, Air Force Reserve, by a Special Review Board; that his record be evaluated in comparison with the records of officers who were and were not selected by the FY93 and FY94 Reserve of the Air Force Line and Health Professions Lieutenant Colonel Selection Boards; which convened on 8 Jun 92 and 14 Jun 93, respectively; and, if he is recommended for promotion by an SRB, that the recommendation of the Special Review Board be forwarded to the Air Force Board for Correction of Military Records at the earliest practicable date so that all necessary and appropriate actions may be taken.

The following members of the Board considered this application in Executive Session on 28 Oct 97, under the provisions of AFI 36-2603:

Mr. Vaughn E. Schlunz, Panel Chair
Mr. Joseph G. Diamond, Member
Mr. Patrick R. Wheeler, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 4 Aug 95, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, ARPC/DR, dated 2 Nov 95.
Exhibit D. Letter, SAF/MIBR, dated 27 Nov 95.
Exhibit E. Letter, applicant, dated 1 Dec 95.


VAUGHN E. SCHLUNZ
VAUGHN E. SCHLUNZ
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUN 12 1998

Office of the Assistant Secretary

AFBCMR 95-02481

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that an AF Form 707A, Field Grade Officer Performance Report (OPR), prepared for the period 27 May 91 through 28 Oct 92 by the Civil Air Patrol (provided he submits an original, completed copy of the OPR), be accepted for file in its proper sequence.

If a completed copy of the OPR is accepted for file, it is further directed that his record be considered for promotion to the grade of lieutenant colonel, Air Force Reserve, by a Special Review Board; that his record be evaluated in comparison with the records of officers who were and were not selected by the FY93 and FY94 Reserve of the Air Force Line and Health Professions Lieutenant Colonel Selection Boards; which convened on 8 Jun 92 and 14 Jun 93, respectively; and, if he is recommended for promotion by an SRB, that the recommendation of the Special Review Board be forwarded to the Air Force Board for Correction of Military Records at the earliest practicable date so that all necessary and appropriate actions may be taken.


JOE G. LINEBERGER

Director
Air Force Review Boards Agency