



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

AFBCMR 97-01755

DEC 04 1997

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], to include a letter to the promotion board president, be considered for promotion to the grade of colonel by Special Selection Board for the Calendar Year 1994A Central Colonel Board.


JOE G. LINEBERGER

Director
Air Force Review Boards Agency

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-01755

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His records to include a letter to the promotion board president, be considered for promotion to the grade of colonel by Special Selection Board (SSB) for the Calendar Year 1994A (CY94A) Central Colonel Board.

APPLICANT CONTENDS THAT:

He was given his Officer Promotion Recommendation (PRF) for the CY94 board only eleven (11) days before the board met, which denied him his right to submit a letter for the board's consideration. He states that the regulation requires 30 days.

In support of the appeal, applicant submits an affidavit.

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 lieutenant colonel.

Applicant was considered and not selected for promotion to the grade of colonel by the CY93A, CY94A, CY95B and CY96B central selection boards.

OPR profile since 1991, follows:

<u>PERIOD ENDING</u>	<u>EVALUATION OF POTENTIAL</u>
31 Mar 91	Meets Standards
31 Mar 92	Meets Standards
31 Mar 93	Meets Standards
21 Jan 94	Meets Standards
26 Aug 94	Meets Standards
18 Jul 96	Meets Standards

AIR FORCE EVALUATION:

The Chief, Promotion, Evaluation, and Recog Div, AFPC/DPPP, reviewed the application and states that various situations can preclude officers being considered by promotion boards from ever seeing their PRFs. For this reason, officer considerations by promotion boards are not invalidated when an officer did not see his/her PRF. In this case, the applicant did review his PRF prior to the board. He fails to provide an explanation as to why he waited until now to address his intention to write to the CY94A board. There is no evidence provided stating the applicant did not receive his PRF 30 days prior to the Board. They state that this point of fact is inconsequential. They believe 11 days is sufficient time to write a letter and send it to a promotion board. They further state that if the applicant believed the board needed additional information when considering his record for promotion, it was his option to provide that information in a letter. When the board convened, that option ended. Applicant has failed to prove his record as reviewed by the CY94A board was in error or that unique circumstances surrounded his inability to write to the board president. Therefore, they recommend denial of applicant's request.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the Air Force evaluation and states that in response to the Facts and Comments, he submitted a sworn affidavit with his petition, a form of evidence accepted by all United States District Courts in support of Petitions, Complaints, Motions and other pleadings. In response to paragraphs c and d, he states that according to his reading of AFI 36-2603, an applicant has up to three years to file his or her application. He filed his within the allotted time, and it should therefore be considered as timely. He further states, the issue should not be whether or not he could have put together something for the board within that period of time. The question should be (1) did he have an equal opportunity with other candidates meeting that board to submit a well-prepared, and thought-out letter, and (2) if not, whether exigent circumstances preclude the Air Force from providing him his PRF 30 days prior to the board. He states, had he, like other candidates meeting that board, received his PRF 30 days prior to the board, he would have had the opportunity to consult with those senior judge advocates and then had sufficient time to write a considered submission to the board. He states the Air Force has presented the board with no evidence of any existing exigent circumstances

that would justify late notification, so the board should assume, correctly, that none existed. This is a simple case of administrative oversight. So, for the above reasons, and the grounds included in his petition and affidavit, he submits that his application should be granted.

Applicant's complete response is attached 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 reviewing the evidence of record, the majority of the Board is convinced that the applicant was not afforded sufficient time to review his PRF and write a letter to the board president. We note that as required by the regulation, if he would have received his PRF 30 days prior to the Board, he would have had the opportunity, if desired, to submit a letter to the board president. Upon submission of the letter to the board president, the majority of the Board recommends applicant's record be considered by SSB.

THE BOARD RECOMMENDS THAT:

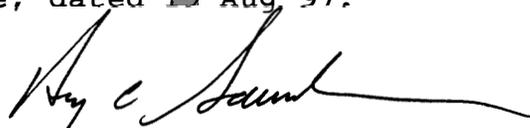
The pertinent military records of the Department of the Air Force relating to APPLICANT, to include a letter to the promotion board president, be considered for promotion to the grade of colonel by Special Selection Board for the Calendar Year 1994A Central Colonel Board.

The following members of the Board considered this application in Executive Session on 16 October 1997, under the provisions of AFI 36-2603:

Mr. Henry C. Saunders, Panel Chairman
 Mr. Allen Beckett, Member
 Mr. Richard A. Peterson, Member
 Ms. Phyllis L. Spence, Examiner (without vote)

By a majority vote, the Board voted to correct the records, as recommended. Mr. Saunders voted to deny applicant's request, but does not desire to submit a Minority Report. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 7 Jun 97.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPPP, dated 10 Jul 97.
- Exhibit D. Letter, AFBCMR, dated 28 Jul 97.
- Exhibit E. Applicant's Response, dated 19 Aug 97.



HENRY C. SAUNDERS
Panel Chairman



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



MEMORANDUM FOR AFBCMR

10 JUL 1997

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

SUBJECT: AFI 36-2603 Application--~~_____~~

Requested Action. Applicant requests special selection board (SSB) consideration by the CY94A (11 Jul 94) (P0694A) central colonel selection board with a letter to the promotion board president included in his officer selection record (OSR).

Basis for Request. Applicant states he received his P0694A promotion recommendation form (PRF) 11 days prior to the board, precluding him from writing a letter to the board president.

Recommendation. Deny.

Facts and Comments:

a. AFR 36-10, The Officer Evaluation System, 1 Aug 88, is the governing directive. AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, does not apply in this instance. Applicant has four nonselections to the grade of colonel by the CY93A (12 Jul 93) (P0693A), P0694A, CY95B (10 Oct 95) (P0695B), and CY96B (2 Dec 96) (P0696B) central selection boards.

b. In support of his appeal, the applicant submits a personal brief.

c. Various situations can preclude officers being considered by promotion boards from ever seeing their PRFs. War, extensive temporary duty (TDY) commitments, and geographical separation are all examples of circumstances which may make it impossible or extremely difficult for an officer to review his/her PRF prior to a board. For this reason, officer considerations by promotion boards are not invalidated when an officer did not see his/her PRF. In this case, the applicant did review his PRF prior to the board. He states he had 11 days to write a letter to the promotion board president, and provided a variety of reasons on why he chose not to do so. The applicant fails to provide an explanation which might help us understand why he waited until now to address his intention to write to the P0694A board. We are provided no evidence the applicant did not receive his PRF 30 days prior to the P0694A board, but this point of fact is inconsequential. Nothing presented in this appeal detracted from the applicant's

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ability to write to the board. The P0694A consideration was the applicant's alone, and we believe 11 days is sufficient time to write a letter and send it to a promotion board, especially in light of today's virtually instantaneous communication capabilities (fax).

d. If the applicant believed the board needed additional information when considering his record for promotion, it was his option to provide that information in a letter. When the P0694B board convened, that option ended. He states he was not going to write to the board if he received a "Definitely Promote" recommendation. Either the applicant had information or explanation to provide to the board or he was planning on letting his record be reviewed by itself. A "Definitely Promote" recommendation would not address the "issue" the applicant now believes he needed to explain to the board. This appeal is untimely and filed in hindsight. We strongly recommend denial of the applicant's request for SSB consideration. He has failed to prove his record as reviewed by the P0694A board was in error or that unique circumstances surrounded his "inability" to write to the board president.

Summary. Based on the evidence provided, our recommendation of denial is appropriate.




KENNETH W. FRYMAN, Col, USAF
Chief, Promotion, Evaluation, and Recog Div
Directorate of Personnel Program Mgt

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