

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

FEB 24 1999

IN THE MATTER OF:

DOCKET NUMBER: 96-02735

COUNSEL: [REDACTED]

HEARING DESIRED: YES

RESUME OF CASE:

In an application dated 11 September 1996, applicant requested that he be granted Special Selection Board (SSB) consideration for the Calendar Year 1996A Central Major Board with the Officer Performance Report (OPR) closing 13 February 1996 included in his Officer Selection Record (OSR).

On 25 March 1997, the Board considered and denied applicant's request. The Board was not persuaded that the processing of the OPR was expedited to meet the selection board. They noted that the OPR shell is generated at least 30 days before the close-out date and that the report was not required to be on file until 13 April 1996, 60 days after the close-out date. A complete copy of the Record of Proceedings is attached at Exhibit F.

Applicant submitted additional information on 23 June 1997 to the Secretary of the Air Force and requested reconsideration of his application. The Board staff reviewed the documentation and determined it did not meet the criteria for reconsideration, Applicant was so notified on 9 July 1997 (Exhibit G).

Applicant has submitted additional information and requests that, on the basis of his promotion to the grade of major by the Calendar Year 1997 (CY97) Board, his date of rank to major be adjusted to a date consistent with selection by the Calendar Year 1996 (CY96) Central Major Board (Exhibit H). His request for review was approved and his case has been reopened,

AIR FORCE EVALUATION:

The Chief, Officer Promotion Management, AFPC/DPPPO, reviewed the request and recommends denial. They state that there are three significant differences in applicant's OSR between his CY96 and CY97 considerations. The first significant difference is that two additional OPRs were included for the CY97 consideration. The second is that a completely different Promotion Recommendation Form (PRF) was rendered and presented to the CY97 board. The third and most important significant difference is the board membership. A completely different board reviewed the applicant's OSR for each board. The different perspectives of

each board would significantly influence the applicant's consideration and the outcome of the board's actions. Applicant cannot be given a date of rank (DOR) commensurate with a year group for which he was found nonselected. Since applicant competed with a separate year group in CY97 and was subsequently selected, he can only be given a DOR commensurate with the year group he competed for promotion. They recommend the Board uphold their previous decision to deny applicant's request. Selection by a subsequent board has no bearing on matters or results presented to a previous board.

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

The Chief, Officer Promotion and Appointment Branch, AFPC/DPPPO, reviewed the request and provided an amended recommendation. In addition to their initial evaluation, they state that there are two other significant factors which must be considered: a promotion opportunity change and the overall recommendation contained on the CY96 and CY97 PRFs. First, the promotion opportunity from CY96 and CY97 increased from 80% to 99%, the first such opportunity since the early 1990s. This accounted for approximately 275 additional promotions from CY96 to CY97. Secondly, and probably the most significant factor was a different promotion rating on the PRFs from CY96 and CY97. In CY96, applicant's overall recommendation on the PRF was a "Promote." For officers with that recommendation in CY96, the select rate in-the-promotion zone (IPZ) was 42.2%. In CY97, applicant received a "Definitely Promote" PPF; for officers with that rating above-the-promotion zone (APZ), the selection rate was 98.8% (Exhibit J).

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Counsel reviewed the Air Force evaluations and provides his response which is attached at Exhibit L.

THE BOARD CONCLUDES THAT:

1. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. Essentially, counsel argues that since applicant was selected for promotion above-the-promotion zone (APZ) to the grade of major, his date of rank (DOR) should be adjusted consistent with selection by an earlier board. Counsel's contention that the Officer Performance Report (OPR) closing 13 February 1996 was not in applicant's record when he was initially considered for promotion but was in the selection record during the second promotion consideration is duly noted. However, the OPR issue was decided in our earlier finding and we do not find counsel's argument persuasive. As the Air Force noted, there were several other factors present during the applicant's second promotion consideration which significantly enhanced his promotability. Therefore, while counsel's numerous contentions are duly noted,

we do not find these assertions, in and by themselves, sufficiently persuasive to override the rationale provided by the Air Force. Therefore, we agree with the recommendation of the Air Force and adopt the rationale expressed as the basis for our conclusion that the applicant failed to sustain his burden of establishing the existence of either an error or an injustice warranting favorable action on these requests.

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 issue(s) involved. Therefore, the request for a hearing is not favorably considered.

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 30 October 1998, under the provisions of AFI 36-2603:

Mr. Robert D. Stuart, Panel Chair
Mr. Vaughn E. Schlunz, Member
Mr. Richard A. Peterson, Member

The following documentary evidence was considered:

- Exhibit F. ROP, dated 21 Apr 97, w/atchs.
- Exhibit G. AFBCMR letter, dated 9 Jul 97, w/atchs.
- Exhibit H. Counsel's letter, dated 17 Apr 98, w/atchs.
- Exhibit I. Letter, AFBCMR, 14 May 98.
- Exhibit J. Letter, AFPC/DPPPO, dated 28 Jul 98.
- Exhibit K. Letter, AFBCMR, dated 17 Aug 98.
- Exhibit L. Letter, AFPC/DPPPO, dated 20 Aug 98.
- Exhibit M. Letter, AFBCMR, dated 21 Aug 98.
- Exhibit N. Letter, AFBCMR, dated 26 Aug 98.
- Exhibit O. Applicant's letter, dated 27 Aug 98.
- Exhibit P. Letter, AFBCMR, dated 31 Aug 98.
- Exhibit Q. Counsel's responses, dated 5 and 6 Oct 98.

Bob Stuart

ROBERT D. STUART
Panel Chair