



Work-Product

## UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

### ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-03871-4

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

The applicant states his application is not a request for reconsideration and should be treated as a new submission. His amended requests are as follows:

1. His officer performance report (OPR) for the period of 10 Dec 02 through 9 Dec 03, altered and inserted into the Automated Records Management System (ARMS) and his Official Military Personnel File (OMPF) by AFPC on or about 20 Jan 22 be removed.
2. Following removal of the contested OPR, he be granted Special Selection Board (SSB) consideration in-the-promotion zone (IPZ) by the Calendar Year 2004B (CY04B) Lieutenant Colonel Central Selection Board (CSB) with corrected records.
3. He receive consideration of all in-residence PME with corrected records.
4. He be granted SSB consideration below-the-promotion zone (BPZ) for promotion to the grade of colonel for all boards on which he would have been otherwise eligible for had he been selected for promotion by the CY04B Lieutenant Colonel CSB.
5. He be granted SSB consideration IPZ by the CY09D Colonel CSB.
6. He be awarded all back pay and allowances due to him in light of the corrective actions.

### RESUME OF THE CASE

On 1 Feb 05 (BC-2005-00525, at Exhibit M), the applicant applied to the AFBCMR requesting his nonselection for promotion by the CY04B Lieutenant Colonel CSB be rescinded, and he be considered IPZ by the CY05B Lieutenant Colonel CSB. He contended he was not afforded fair consideration during the CY04B Lieutenant Colonel CSB due to graduate-level degrees were given disproportionate weight and his record did not include a personal letter to the board addressing a graduate-level degree and his attempts to obtain one.

On 4 Mar 05, the AFBCMR directed the applicant's record be corrected to show he was not considered for promotion by the CY04B Lieutenant Colonel CSB, and he was considered IPZ by the CY05B Lieutenant Colonel CSB.

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On 1 Apr 06, according to Special Order [Work-Product], the applicant was promoted to the grade of O-5, effective and with a date of rank (DOR) of 1 Apr 06.

On 1 Oct [W:], according to Special Order [Work-Product], the applicant was promoted to the grade of O-6, effective and with a DOR of 1 Oct [W:].

On 30 Apr 12, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was released from the Regular Air Force, in the grade of O-6. His narrative reason for discharge is "Vol Retirement: Sufficient Service for Retirement."

On 1 May 12, according to Special Order No. [Work-Product], dated 20 Sep [W:], the applicant was retired in the grade of O-5. He was credited with 20 years and 16 days of active service.

On 26 Aug 12, the applicant applied to the AFBCMR and requested the following corrections be made to his record:

1. His OPR for the period 10 Dec 02 through 9 Dec 03 be voided and removed from his record.
2. His DOR of promotion to the grade of O-5 be changed from 1 Apr 06 to 1 Apr 05.
3. His DOR of promotion to the grade of colonel (O-6) be changed from 1 Oct [W:] to 1 Oct 10.
4. He be granted back pay and allowances for the adjusted DORs.
5. He be granted any other benefits or entitlements that would have accrued with promotion on the CY04B Lieutenant Colonel board and promotion on the IPZ Colonel board.
6. His retirement grade be adjusted to reflect O-6.
7. His retirement pay and allowances be adjusted to account for the corrected DORs.

On 21 Feb 13, the Board considered and denied the request, finding the applicant had provided insufficient evidence of an error or injustice to justify relief. The applicant claimed the contested OPR contained factual errors, his rater had insufficient supervision and engaged in reprisal, and his sustained record of performance demonstrated he would have been selected for promotion during the CY04B Lieutenant Colonel CSB except for the reprisal. The Board did not find the evidence provided by the applicant sufficient to override the rationale provided by the Air Force offices of primary responsibility and therefore adopted their rationale as the basis for their conclusion. Additionally, the board concluded the available evidence did not indicate the applicant had been the victim of reprisal as he contended.

In a letter dated 8 Aug 13, the Chief of Staff, Office of the Under Secretary of Defense responded to the applicant's request for review of the Board's decision. After careful consideration, it was determined the Board had not acted arbitrarily, capriciously, contrary to law, or that its determination was unsupported by substantial evidence. Accordingly, the Board's decision was upheld and the action on behalf of the Secretary of Defense was considered final.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit H.

On [REDACTED] Dec 13, the applicant requested reconsideration of his request to remove his OPR for the period ending 9 Dec 03, again claiming the rater did not have the required 120 days to render a valid report. He referenced two memoranda from the Secretary of the Air Force Office of Legislative Liaison, both of which responded to Congressional inquiries submitted by the applicant regarding the contested OPR. In the memorandum dated 10 May 13, it was determined his rater had 219 days of supervision and in the memorandum dated 26 Aug 13, it was determined the rater had 143 days of supervision. On 10 Feb [REDACTED], the Board determined the applicant's request did not meet the criteria for reconsideration, indicating reconsideration is authorized only where newly discovered relevant evidence is presented which was not available when the application was submitted. In addition, the reiteration of facts previously addressed by the Board, uncorroborated personal observations, or additional arguments on the evidence of record were not adequate grounds for reopening the case (See Exhibit K).

On 28 Sep 16 ([REDACTED] Work-Product, at Exhibit M) the applicant submitted an application to the Board and requested his records be corrected to include his assignment to the 11th Reconnaissance Squadron (RS) for RQ-1 Predator Basic Pilot Qualification training and his permanent change of assignment (PCA) to the [REDACTED] RS effective 26 May 03, upon completion of training. On 22 May 19, the Board granted his request and a directive was issued.

On 25 Apr 20, the applicant again requested reconsideration of his request and contended: 1) his PCA assignment and change of reporting official were neither correctly documented in his records, nor properly considered by any CSB convening in 2004 or later; 2) he deployed to Pakistan from 2 Sep 03 to 13 Dec 03 and his Letter of Evaluation for the deployed period was not placed in his officer selection record (OSR); therefore, one or more CSBs convened without considering his significant accomplishments as a deployed commander; and 3) his OPR ending 9 Dec 03 did not have the required 120 days of supervision to render it valid.

On 19 Feb 21, AFPC/DP3AM verified the applicant's Foreign Service in Pakistan from 2 Sep 03 to 13 Dec 03 for 3 months and 12 days and provided a "boots on ground" letter to the applicant to use as proof. A DD Form 215, *Correction to DD Form 214, Certification of Release or Discharge from Active Duty*, was completed on 7 Jul 22 adding the Foreign Service time.

On 23 Sep 21, the Board considered and denied his request for reconsideration finding the applicant had provided insufficient evidence of an error or injustice to justify relief. The Board noted the applicant's OPR closing 9 Dec 03 lists accomplishments from his deployment and the OPR was considered during the CSBs for which the applicant was selected for promotion to O-5 and O-6. Furthermore, the practice of adding LOEs to OSRs for deployed commanders was not implemented until after his deployment and therefore could not be added to his OSR or permanent record. Additionally, the Board noted the applicant was promoted to O-5 and O-6 with the contested OPR, after the Board granted his previous request (BC-2005-00525) to remove the 2004 nonselection and that he be considered IPZ by the CY05B Lieutenant Colonel CSB. While he was the beneficiary of the Board's recommendation, the applicant now argued the same OPR included in his record was the cause of unfair consideration for promotion. The Board further noted Air Force policy states an eligible officer is responsible for ensuring the accuracy of their military record and correcting any discrepancies prior to a board convening and affords an officer the opportunity to send a letter to each selection board to address any concerns about their record. The Board was not persuaded the OPR was an unfair or inaccurate assessment of the applicant's performance for the reporting period, the applicant exercised reasonable diligence to correct any discrepancies in a timely manner, or that the report should be changed or removed.

For an accounting of the applicant's previous request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit N.

On 1 Aug 22, DAF/IGQ notified the applicant his complaint filed on or about 19 May 22 requesting reconsideration of his previous IG complaint, found no procedural issues with the handling of his reconsideration request, and he had not provided new or compelling information to warrant further analysis or review. DAF/IGQ noted the applicant's central issue was the days of supervision on his 2003 OPR and referred the applicant to the AFBCMR in accordance with AFI 90-301, *Other Grievance Channels*.

On 17 Nov 22, the applicant requested reconsideration of his request. He again contends his OPR ending on 9 Dec 03 did not have the required 120 days of supervision to render it valid. All officials in his rating chain have certified the from and thru dates to be insufficient days of supervision for any report to be filed. Furthermore, he contends on 10 May 17, AFPC altered the OPR to reflect 143 days of supervision, from 365 days of supervision and on or about 20 Jan 22, the altered OPR was inserted into ARMS and his OMPF. No official was authorized to alter or insert the altered OPR into his OMPF and therefore it is a forgery. The alteration was not authorized by the rater, additional rater, nor reviewer yet it purports them to have authorized and concurred. The applicant references Texas Penal Code Section 32.21 defines "*forge*" to mean the alteration of any writing so that it purports "*to have been executed at a time or place or in a numbered sequence other than was in fact the case,*" and defines "*forge*" to mean the alteration of any writing so that it purports "*to be the act of another who did not authorize that act.*" Additionally, the applicant suggests the Board was misled in his previous case by the false AFPC/DPSID advisory opinion, dated 17 Sep 12, intended to defraud him of fair consideration.

In support of his reconsideration request, the applicant provided a personal statement, duplicate documents included in his previous request, and the following new evidence:

1. A copy of the altered OPR for the period ending 9 Dec 03 reflecting 143 days of supervision.
2. A letter from AFPC/JA, dated 1 Oct 19, addressed to the applicant. AFPC/JA indicated the "BCMR directive dated 17 Jun 19 does not alter AFPC's conclusion; i.e., 143 is the accurate number of days of supervision for the OPR that closed out on 9 Dec 03." They further explained AFPC updated the applicant's contested OPR on 10 May 17 to reflect 143 days supervision from 365 days of supervision based on the following analysis:

"The OPR in question was [the applicant's] first OPR after he entered active duty (EAD). IAW the version of AFI 36-2406 [*Enlisted Evaluation Systems*] in effect at the time, EAD OPRs used the EAD date as the start of the rating period. For [the applicant], that was 10 Dec 02 (at which time he was assigned to the [REDACTED] RS. Prior to his PCA to the [REDACTED] RS in May 03, [the applicant] was TDY for 121 days to attend training. Again, IAW AFI 36-2406, this period of time was excluded from the OPR supervision time. Consequently, there was insufficient supervision time at the [REDACTED] RS to generate a change of rating official (CRO) OPR when [the applicant] PCA'd to the [REDACTED] RS. The non-excluded time during which he was assigned to the [REDACTED] RS was included in the overall supervision time for the annual report (which closed out 9 Dec 03) because it did not fall into any of the excluded categories in the AFL."

3. An email exchange between AFPC/JA and the applicant, dated 18 Jan 22. The applicant requested records of any meeting authorizing the change of days in supervision to his 9 Dec 03

OPR and AFPC/JA indicated they were not aware of any meeting or records, other than the corrected OPR.

4. An email from AFPC/DP3SP to AFPC/IGQ, dated 3 Mar 22. AFPC/DP3SP stated there is no course of action which AFPC is able to execute as the applicant is a retired officer and not eligible to apply for correction to the Evaluation Report Appeals Board; therefore, he must submit his request to the AFBCMR, the final authority.

5. A memorandum for record (MFR) signed by the additional rater (and squadron commander) of the contested OPR, dated 5 Jul 22. The additional rater indicated the rating period began on 26 May 03 and ended on 2 Sep 03, when the applicant departed for his deployment to Pakistan. The applicant was assigned to his deployed rater for the duration of the TDY and through 9 Dec 03, the end of the rating period.

6. An MFR signed by the reviewer of the contested OPR, dated 26 Jul 22. The reviewer indicated the number of days of supervision was 97 days and conceded the number could be as high as 100 days, but not 143 days.

7. A letter from DAF/IGS, dated 9 Sep 22, addressed to the applicant. DAF/IGS indicated the applicant filed a second complaint with the Inspector General Hotline on 24 May 22 alleging reprisal by the former AFPC/CC. The applicant's complaint was dismissed by the DAF/IGS finding insufficient evidence to indicate wrongdoing and an inadequate basis to warrant further investigation. Specifically, "Information we developed showed the senior leader did not withhold a favorable personnel action because she was not authorized to amend the dates of the rating period of your 2003 OPR. We further found that, as she had been tasked by the DIG [Senior Official Inquiries Directorate] to review three issues pertaining to the 2014 AFPC advisory opinion issued to the AFBCMR, her reported finding "no corrective action was required" referred to that advisory opinion rather than your OPR." The Department of Defense (DoD) IG concurred with the findings.

The applicant's complete submission is at Exhibit O.

#### **APPLICABLE AUTHORITY/GUIDANCE**

AFI 36-2401, *Correcting Officer and Enlisted Evaluation Reports*, Table 2, *Correcting Minor Errors on Evaluation Reports*. If the request is to correct an error in the "from" or "thru" date of the report, the number of days of supervision, or the reason for the report is, considered a minor correction, the MPF (or Commander's Support Staff in the absence of a MPF) who knows of an error that is correctable under this table should initiate corrective action.

AFI 36-2406, *Officer and Enlisted Evaluation Systems*, states, enter the number of days the rater supervised the ratee during the reporting period on the performance report. Deduct all periods of 30 or more consecutive calendar days during which the ratee did not perform normal duties under the rater's supervision because either the ratee or the rater was TDY, on leave, in patient status, in classroom training.

AFI 36-2501, *Officer Promotions and Selective Continuation*, dated 16 Jul 04. SSBs are convened to consider officers who were improperly considered, or not considered, by one or more promotion boards. The Air Force Board for Correction of Military Records or a federal court can direct an officer for consideration by an SSB. SSB consideration is based on legal, administrative, and material errors. An SSB will not be considered if, by exercising reasonable diligence, the officer should have discovered the error or omission and could have taken corrective action before the

originally scheduled board convened. Eligible officers are responsible for determining eligibility for consideration by various promotion zone considerations - BPZ, IPZ, and above-the-promotion zone (APZ). In addition, they are responsible for ensuring the accuracy of their military personnel data system data and OSR, prior to board convening date. As a minimum, the officer must review the Officer Preselection Briefs (OPB) for accuracy of personnel data and correct any discrepancies prior to the board. They receive promotion recommendation from the senior rater approximately 30 days prior to the board, review PRF and OPRs for accuracy and discuss any concerns with rating officials, and point out any omissions of facts (e.g. significant achievements, wrong duty title and/or duty description). Officers consider submitting a letter to the board, if applicable, and should report any errors to the MPF Career Enhancement Element or other OPR listed on the OPB instruction sheet.

## **FINDINGS AND CONCLUSION**

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, including new submissions, such as memoranda from former rating chain officials, an altered version of the contested OPR, communications from AFPC, and IG responses, the Board finds insufficient evidence that materially refutes the determinations made in previous Board decisions or demonstrates an error or injustice to warrant corrective action. Notably, the applicant has submitted substantially similar requests on multiple occasions (see Records of Proceedings at Exhibits H, K, N), and the Board has previously addressed and denied those requests after extensive review. In its most recent denial, the Board acknowledged the applicant's OPR was used during promotion considerations where he ultimately achieved the grades of O-5 and O-6. The Board concluded that while the applicant disagrees with the content and supervision period of the report, the contested OPR was consistent with regulatory requirements at the time, was not proven to be the result of reprisal or fraud, and did not preclude his eventual promotion to colonel.

Furthermore, under AFI 36-2501, officers bear responsibility for ensuring the accuracy of their records prior to convening promotion boards. The evidence fails to demonstrate that the applicant exercised due diligence in identifying and resolving any discrepancies in a timely manner. While the applicant contends the OPR was unlawfully altered, the documentation from AFPC/JA and AFPC/DP3SP confirms the correction to the supervision period was based on an AFI-compliant assessment and not the result of unauthorized conduct or malfeasance.

The applicant's interpretation of state-level criminal statutes regarding forgery is not applicable to this Board's jurisdiction, and no credible evidence was provided to support the claim that the altered OPR was inserted into his record with intent to deceive or mislead. The Board also notes the DAF/IG and DoD/IG found no basis to investigate the matter further, citing insufficient evidence of wrongdoing or procedural error.

Ultimately, the Board finds no new, relevant, and material evidence that would justify revisiting or overturning its prior decisions. The applicant has not demonstrated that the contested OPR was rendered in violation of governing policy, nor that it is substantively inaccurate or unjust. Additionally, the Board is not persuaded that any material error or injustice occurred that would warrant consideration by an SSB or the award of back pay and allowances. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

## RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

## CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2012-03871-4 in Executive Session on 25 Jan 24:

Work-Product, Panel Chair  
 Work-Product, Panel Member  
 Work-Product, Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit H: Record of Proceedings, w/ Exhibits A-G, dated 21 Feb 13.
- Exhibit K: Denial of Reconsideration, w/ Exhibits I-J, dated 10 Feb W...
- Exhibit N: Record of Proceedings, w/ Exhibits L-M, dated 27 Jun 22.
- Exhibit O: Application, Reconsideration DD Form 149, w/atchs, dated 25 April 2020.
- Exhibit P: Additional Documentary evidence, including relevant excerpts from Official Records.
- Exhibit Q: DAF/IGQ Case File, dated 1 Aug 22 WITHDRAWN.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

5/5/2025

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Board Operations Manager, AFBCMR

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