

## **RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2020-01720

XXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### **APPLICANT'S REQUEST**

1. His records be corrected to reflect that he completed Squadron Officer School (SOS), that he deployed to Afghanistan from Nov 2008 to Apr 2009, and that he that he served honorably from 2008 until his retirement in 2011 (**administratively corrected**).
2. He be eligible for the Post-9/11 GI Bill benefits (**administratively corrected**).
3. Supplemental consideration for promotion to major (O-4).
4. Repayment of \$18,000 for an over payment.

### **APPLICANT'S CONTENTIONS**

He applied for his Post 9/11 GI Bill benefits several times but was told by the Department of Veterans Affairs (VA) that he was not eligible because he received a dishonorable discharge. This is incorrect as he retired in 2011. Additionally, in 2008, he was selected to attend SOS in residence. After 2 weeks of in-residence SOS, he was pulled from class to train and deploy to Afghanistan. On 1 Nov 08, he was deployed to Afghanistan. In Apr 09, he returned from his deployment and was passed over for promotion. Several months later he was told he was being retired after being passed over for promotion. He was told by his commander there was no record of his completion of SOS. He now has confirmation he completed SOS and would like supplemental reconsideration for promotion to major (O-4). Furthermore, approximately 7 years ago he was required to pay \$18,000 for an overpayment he received, he was not told what the overpayment was for, but assumes it was associated with the missing record of his deployment.

The applicant's complete submission is at Exhibit A.

### **STATEMENT OF FACTS**

The applicant is a retired Air Force Reserve captain (O-3) awaiting retired pay at age 60.

According to the applicant's Reserve Officer Personnel Brief pulled from the Military Personnel Database System, the applicant completed non-residence SOS in Dec 2008 and was deployed from 1 Nov 08 to 29 Apr 09.

On 30 Mar 11, the applicant was notified of his second deferral for promotion, and that he would be transferred to the Retired Reserve on his adjusted mandatory separation date (MSD) of 1 Oct 11.

On 1 Oct 11, the applicant was assigned to the Retired Reserve Section, and placed on the USAF Reserve Retired List.

On 25 Jun 20, the United States Air Force Reserve was able to verify the applicant's active service and provided a DD Form 214, *Certificate of Release or Discharge from Active Duty*, from 26 Jul 08 to 16 Jun 09.

On 28 Aug 20, ARPC/DPAT provided the applicant a letter for the VA verifying the applicant's eligibility for the Post-9/11 GI Bill.

The applicant did not provide a filed travel voucher for his 2008/2009 deployment; nor did he provide any DFAS documents regarding the debt/payments.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

## **APPLICABLE AUTHORITY**

Air Force Instruction (AFI) 36-2504, *Officer Promotion, Continuation and Selective Early Removal in the Reserve of the Air Force*, Paragraph 5.11.2., Effect of Twice Failing Promotion to Captain, Major, or Lieutenant Colonel: A captain, twice deferred for promotion to major and not in a continued status, will be separated from the Reserve Air Force not later than the first day of the seventh month after the President approved the board report of the board that considered the officer for the second time.

AFI 36-2301, *Developmental Education*, dated 27 Jun 02, SOS was identified as Basic Development Education (BDE) in the Military Personnel Data System (MilPDS) on the Officers Selection Brief (OSB). A revision to AFI 36-2301, dated 16 Jul 10, changed SOS from being identified as BDE to Primary Developmental Education (PDE). The change was not implemented until the CY11 USAFR Lt Col Promotion Selection Board which convened on 13 Jun 11.

## **AIR FORCE EVALUATION**

ARPC/PB recommends denying the applicant's request for supplemental promotion consideration. There is no indication of an error or injustice. The applicant's developmental education was included on his Officer Selection Brief and properly reviewed by the promotion board. The applicant was considered and not selected by the CY10 Major Promotion Selection Board, which convened on 1 Feb 10, and the CY11 Major Promotion Selection Board, which convened on 31 Jan 11. The applicant's Officer Selection Briefs for both boards indicated that he did complete BDE (SOS) in Dec 08. The applicant was retired from the Air Force on 1 Oct 11 after being twice deferred on the CY10 and CY11 Line and Nonline Major Promotion Selection Board.

The complete advisory opinion is at Exhibit C.

## **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 18 Dec 20 for comment (Exhibit D), but has received no response.

## **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, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/PB and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes that according to ARPC/PB, the applicant's records showing that he completed Squadron Officer School was presented to the promotion board for CY10 and CY11 Major Promotion Selection Board and the applicant has not provided any evidence to the contrary. In addition, the applicant has not provided any evidence that show his \$18,000 debt or that he has attempted to exhaust his administrative avenues of relief by contacting DFAS to correct the alleged error or documentation that his claim for repayment was denied. If the applicant believes that the debt is associated with the error in his records, he now has the documentation that was administratively corrected, in the form of a DD Form 214 and updated records that he can present to DFAS to attempt to resolve the issue. Furthermore, if the applicant is seeking a waiver of his debt, he should first exhaust his administrative remedies by applying to the Remissions Board. Should the applicant provide such evidence, the Board may be willing to reconsider his request, but as it stands during these proceedings, the Board finds insufficient evidence to grant such relief. Therefore, the Board recommends against correcting the applicant's records beyond that rendered administratively.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

### **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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2020-01720 in Executive Session on 17 Feb 21 and 30 Aug 22:

, Panel Chair  
, Panel Member  
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 13 May 20.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory opinion, ARPC/PB, dated 9 Sep 20.  
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 18 Dec 20.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.