

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-01996

XXXXXXXXXX

COUNSEL: XXXXXXXXXXXX

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her Promotion Recommendation Form (PRF) prepared for consideration by the Calendar Year 2016B (CY16B) Lieutenant Colonel (O-5) Central Selection Board (CSB) be voided and replaced with a reaccomplished PRF; and her record to include the reaccomplished PRF be provided Special Selection Board (SSB) consideration by the CY16B Lieutenant Colonel CSB.

APPLICANT'S CONTENTIONS

She was erroneously passed over for promotion to lieutenant colonel as a result of her senior rater using erroneous information concerning whether she was in-the-primary zone (IPZ) for promotion or below-the-primary zone (BPZ). The senior rater wrote a PRF with a push line and promotion recommendation believing she was BPZ when in fact she was IPZ. The senior rater acknowledges his error. She would have very likely been promoted IPZ if the senior rater had the correct information and written the PRF in the manner he states he would have had he been correct as to her promotion board status. Further, her PRF did not capture all of her accomplishments. For most Air Force Officers the push line and hence any realistic promotion chance is dependent on the correct year group and promotion zone. This is even more so when vagaries of the promotion system do not give the senior rater a "definitely promote" to award. In that case the next best thing, and a clear message to the promotion board - to promote the officer, is the phrase. These were the words the senior rater would have used had he been properly briefed on the correct promotion zone when he wrote the PRF. She acted with all due diligence when reviewing the PRF prior to the board. The Management Level Review (MLR) president was wrong to deny the remedy of a new PRF with the new push line when the material error was clearly stated and where the senior rater labored under a material error in the process by which the PRF was crafted. She requests the Board adopt the rationale used in BC-2003-03653 that the reaccomplished PRF be adopted.

In support of her request, the applicant provides copies of the original and reaccomplished PRFs, the cited AFBCMR Case BC-2003-03653, and other documents related to her appeal.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving Air Force major (O-4).

On 1 August 2012, according to a Report on Individual Personnel (RIP) summary, the applicant was promoted to the rank of major, with a 1 August 2012 date of rank.

AF Form 709, *Promotion Recommendation*, provided by the applicant, was prepared for the P0516B (IPZ) promotion board and reflects an overall recommendation of "Promote."

On 8 Jun 16, the applicant was notified of her nonselection for promotion by the CY16B Lieutenant Colonel (LAF) Central Selection Board.

On 23 May 2017, the applicant was notified of her nonselection for promotion by the CY17A Lieutenant Colonel (LAF/MSC) Central Selection Board. However, she was selected for continuation by the CY17A Major Selective Continuation Board.

On 10 October 2018, the applicant was notified of her nonselection for promotion by the CY18B Lieutenant Colonel (LAF) Central Selection Board. However, she was selected for continuation by the CY18B Major Selective Continuation Board.

On 5 October 2018, according to a letter provided by the applicant, her senior rater provided a letter to AFPC/DPPP [Promotion, Evaluation, and Recognition Division] requesting the convening authority accept his corrections to the PRF (P0516B) for the applicant due to material errors and allow the PRF to be considered at an SSB. He further states, "I was erroneously informed regarding her promotion eligibility status and was ill-advised that she was BPZ versus IPZ which impacted my overall comments and lack of stratification. Once I was advised that there was an opportunity to modify her PRF, I corrected the form to accurately reflect her performance..."

On 14 February 2019, according to a letter provided by the applicant, the MLR president non-concurred with the request for a new PRF to be submitted for an SSB. He indicated after a thorough review of the record, and letter from the senior rater, the original PRF does not reflect erroneous or unjust content that would justify a rewrite and a new PRF. Per ¹AFI 36-2406, "appeals to rewrite the promotion recommendation simply to include different, but previously known or documented accomplishments will not be approved."

The applicant's counsel cites AFBCMR Case BC-2003-03653 as precedent to grant the applicant's request. The cited ROP is included in Exhibit A. In this case, the Board recommended the applicant be given SSB consideration because the applicant's senior rater and MLR president indicated the applicant's Officer Performance Report (OPR) and PRF were inaccurate and the Board recommended they be declared void and removed from the applicant's records.

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

APPLICABLE AUTHORITY/GUIDANCE

Department of the Air Force Instruction (DAFI) 36-2501, *Officer Promotions and Selective Continuation*, paragraph 1.7. *Eligible Officers*. 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 Officer Selection Record (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.

¹ AFI 36-2406, *Officer and Enlisted Evaluations Systems*

Chapter 6, *Special Selection Board*. 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.

AIR FORCE EVALUATION

AFPC/DP3SP (Evaluation Program) recommends denying the application. Based on the analysis of the facts and documentation provided, there is insufficient evidence to substantiate an error or injustice as the PRF was accomplished according to regulatory/instruction guidance. MLR presidents who review all senior raters' PRFs are in the best position to review and provide support for substituting a PRF, when warranted. In addition, the Air Force position is "Impact on Promotion or Career Opportunity." An evaluation is not erroneous or unfair because the applicant believes it contributed to a non-selection for promotion or may impact future promotion or career opportunities. The board recognizes that non-selection for promotion is, for many, a traumatic event, and the desire to overturn that non-selection is powerful motivation to appeal. However, the board is careful to keep the promotion and evaluation issues separated, and to focus on the evaluation only. The simple willingness by evaluators to upgrade, rewrite, or void an evaluation is not a valid basis for doing so. Example: Requests to add optional statements (such as DE/PME, assignment/job/command "push" recommendation, add an omitted award or stratification) to an evaluation or PRF will normally not form the basis for a successful appeal. As these statements are not mandatory for inclusion, their omission does not make the evaluation inaccurate. One must prove the evaluation is erroneous or unjust based on its content. (Reference: AFI 36-2406, attachment 2, paragraph 2.5.1).

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 9 February 2021, for comment (Exhibit D). On 7 March 2022, counsel for the applicant requested the case be administratively closed in order to have more time to respond to the advisory opinion (Exhibit E). The case was closed on 9 March 2022 (Exhibit F).

Counsel for the applicant provided a rebuttal on 18 April 2022 and requested the case be reopened.

Counsel contends the advisory fails to address the errors and irregularities pointed out by the counsel in the underlying brief and instead attempts to rely on generalized assumptions and statements of policy and instructions without making any attempt whatsoever to apply the facts at hand to the aforementioned policies and instructions. The senior rater was given erroneous information concerning the applicant's promotion zone when he wrote her PRF. The advisory also states the MLR president is in the best position to review and provide support for substituting a PRF, when warranted. Clearly, it is the AFBCMR that is in the best position to correct such a flagrant error. Further, the advisory states, an evaluation is not erroneous or unfair because the applicant believes it contributed to non-selection for promotion or may impact future promotion or career opportunities. Such a statement is insulting. The applicant is not appealing to the AFBCMR because she feels her PRF contributed to her nonselection for promotion. She is appealing because of an erroneous and illegitimate PRF that by the senior rater's own admission did not reflect her true status as being IPZ. The advisory fails to address rehabilitative

action the Air Force could take by substituting the PRF and granting an SSB. She has dedicated her life to the Air Force and has made many sacrifices. As a Hispanic woman she has faced and overcome many obstacles in her pathway to Air Force success. She should not have to overcome the results of an improperly written PRF. The advisory also fails to address the effect of losing the chance of further promotion for the applicant. The Air Force needs exemplary female role model officers and to deny the Air Force the opportunity to have the applicant serve in a higher grade will do significant damage.

The applicant's response is at Exhibit G.

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 AFPC/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant states she should be afforded an SSB because she was erroneously passed over for promotion to lieutenant colonel because her senior rater used erroneous information concerning whether she was IPZ or BPZ for promotion. In addition, the applicant's counsel cites AFBCMR Case BC-2003-03653 as precedent to grant the applicant's request. However, the circumstances of the cited case are not similar to the applicant. In this respect, the primary justification for the Board's decision to grant relief in the cited case was that both the applicant's senior rater and the MLR president stated that the OPR and PRF were inaccurate. In the applicant's case, although her senior rater provided support to re-accomplish and substitute the PRF within the official record, the MLR president non-concurred with the request. Counsel disagrees with AFPC/DP3SP that the MLR president is in the best position to review and provide support for substituting a PRF and believes the Board is in the best position to correct a "flagrant" error. However, the Board disagrees. According to DAFI 36-2501, the Board does have the authority to direct an officer for consideration by an SSB. However, the Board does not find legal, administrative, or material errors occurred in the applicant's record to warrant an SSB. Moreover, while counsel places the blame on the senior rater for preparing a PRF for the wrong promotion zone, the applicant does not take responsibility for reviewing her own record as required per DAFI 36-2501, paragraph 1.7, which states eligible officers are responsible for determining eligibility for consideration by various promotion zone considerations - BPZ, IPZ, APZ and are responsible for ensuring the accuracy of their military personnel data system data and OSR, prior to the board convening date. As a minimum, the officer must review the OPB for accuracy of personnel data and correct any discrepancies prior to the board. Therefore, in view of the forgoing, the Board recommends against correcting the applicant's record.
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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2021-01996 in Executive Session on 20 July 2023:

, 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 11 May 2021.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DP3SP, dated 3 February 2022.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 9 February 2022.
Exhibit E: Email, Counsel, dated 6 March 2022.
Exhibit F: Letter, SAF/MRBC, date 9 March 2022.
Exhibit G: Counsel's Response, dated 16 April 2022.

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.

X

Board Operations Manager, AFBCMR