
RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-02552

XXXXXXXXXXXXXX

COUNSEL: XXXXXXXXXXXX

HEARING REQUESTED: YES

APPLICANT'S REQUEST

She be granted an immediate/direct promotion to the grade of lieutenant colonel (O-5).

APPLICANT'S CONTENTIONS

In a 3-page legal brief, the applicant through counsel, contends her stellar, unblemished record proves she performed superbly her entire career and she should have received a "Definitely Promote" (DP), which would have resulted in her being promoted to O-5. Air Force statistics reveal that 100 percent of nurse Majors (O-4) in her year group receiving a DP, were promoted to O-5. According to a memorandum, notarized 7 Oct 20, Colonel(R) M-----, opined that as the applicant's Senior Rater, she was erroneously advised that Individual Mobilization Augmentee (IMA) nurses were subject to precisely the same ceilings as active duty nurses for the coveted DP. As a result of this erroneous information, she endorsed the applicant's evaluation with a very laudatory OPR and gave her a "Promote" (P), but would have preferred to have given her a DP.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve Major (O-4).

On 8 Apr 03, the applicant's Wing Commander, then Brigadier General(S) B-----, signed her AF Form 707A, *Field Grade Officer Performance Report (Maj thru Col)*, for the period 7 Mar 02 thru 6 Mar 03, as the Reviewer, concurring with the Rater, Lieutenant Colonel -----, and Additional Rater, Colonel M-----, assessments, that she was a "superb officer and nurse," and definitely retain as an Individual Mobilization Augmentee.

On 23 Jun 03, according to documents submitted by ARPC/PB, the applicant met the FY04 Air Force Reserve Line and Health Professions Lieutenant Colonel Promotion Selection Board. Her AF Form 709, *Promotion Recommendation*, signed by her Senior Rater, Brigadier General(S) B-----, had an overall recommendation of "Promote." She was not selected for promotion.

On 16 Jun 11, the applicant was retired in the grade of O-4, having served 26 years, 11 months, and 26 days of service per 10 USC, Section 12732.

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

AIR FORCE EVALUATION

ARPC/PB recommends denying the application. In accordance with (IAW) AFI 36-2406, *Officer and Enlisted Evaluation Systems*, dated 1 Jul 20, the Senior Rater is defined as the evaluator designated by the management level who completes the Performance Recommendation Form (PRF) and also serves as reviewer on the Officer Promotion Report (OPR). Additionally, per AFI 36-2406, the Senior Rater is solely responsible for evaluating each officer's Record of Performance (ROP) and Duty Qualification History Brief (DQHB) and for either awarding PRF recommendations among officers or submitting officers to compete for aggregation or carry-over DP recommendation. IAW Air Reserve Personnel Center Memorandum (ARPCM) 03-01, *FY04 Air Force Reserve Line and Health Professions Lieutenant Colonel Promotion Selection Boards Convening Notice*, dated 27 Jan 03 (applicable to the applicant's promotion board in question), "There is no quota on the number of eligible officers who may be awarded a DP recommendation."

Colonel(R) M-----, claims in her memorandum, notarized 7 Oct 20, she was the applicant's Senior Rater, and received faulty information regarding quotas for "DP," resulting in her giving the applicant a "P" ranking instead of the "DP" ranking she would have preferred to give the applicant. However, when the applicant met the Participating Lieutenant Colonel Promotion Board in FY04, her PRF with a "P" ranking was signed by her Senior Rater, Brigadier General(S) B-----. She was not selected for promotion. Additionally, ARPCM 03-01 clearly stated there was no quota on the number of eligible officers that may be awarded a "DP." The Senior Rater, in this case, Brigadier General(S) B-----, is the only person who can recommend a change to the PRF.

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 23 Mar 22 for comment (Exhibit D), and the applicant replied on 27 Apr 22. In her response, the applicant contended the advisory has the facts right, but has drawn a badly flawed conclusion. The advisory reasons that Colonel -M----- was not the final deciding authority; that the final decision rested with Brigadier General (S) B-----, and he awarded the applicant a "P." The flaw in the conclusion is that Colonel(R) M----- was misled and rated the applicant "P" ranking instead of a "DP" ranking under wrong guidance. Brigadier General(S) B----- following standard practice, rank-ordered the applicant, accepting the "P" ranked PRF from Colonel (R) M-----, the senior officer entrusted with the process. The applicant reiterates her record is outstanding and immediate promotion is warranted. In the alternative, award her with a "DP" and have her records meet a special promotion board.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was not 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 also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement.

Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

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 application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2021-02552 in Executive Session on 22 Jun 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 6 Jul 21.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, ARPC/PB, w/atchs, dated 16 Dec 21.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Mar 22.
Exhibit E: Applicant's Response, received 27 Apr 22.

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

X

Board Operations Manager, AFBCMR