

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03175

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider her request to correct her official military record to reflect:

1. Immediate return to Active Guard Reserve (AGR) status, with no breaks in service.
2. Extension to her Mandatory Separation Date (MSD) to allow for lost time.
3. Retroactive promotion to major (O-4), with back pay.
4. Coverage for medical expenses incurred while in Individual Ready Reserve (IRR) status.
5. Removal of 2018 Officer Performance Report (OPR) and replacement with proposed draft provided by the applicant.
6. Removal of 2019 referral OPR and replacement with proposed draft provided by the applicant.
7. Reversal of all negative administrative actions taken against her.
8. Award of the Meritorious Service Medal.
9. Her assignment of choice.

RESUME OF THE CASE

The applicant is a currently serving Air Force Reserve captain (O-3).

On 27 Jul 22, the Board considered and denied her request to correct her official military record to reflect: 1) immediate return to AGR status, with no breaks in service; 2) extension to her MSD to allow for lost time; 3) retroactive promotion to major (O-4), with back pay; 4) coverage for medical expenses incurred while in IRR status; 5) removal of 2018 OPR and replacement with proposed draft provided by the applicant; 6) removal of 2019 referral OPR and replacement with proposed draft provided by the applicant; 7) reversal of all negative administrative actions taken against her; 8) award of the Meritorious Service Medal; and 9) her assignment of choice, finding the applicant had provided insufficient evidence of an error or injustice to justify relief.

The applicant's multiple requests for relief were based upon her contention that adverse personnel actions were taken against her due to discrimination and diversity issues within the workplace. Based upon the authority granted to the Board pursuant to Title 10, United States Code, Section 1034 (10 USC § 1034), the Board reviewed the complete evidence of record to reach their own independent determination of whether reprisal occurred and found her allegations of discrimination and reprisal unsupported by evidence. Additionally, the Board found the applicant was provided opportunities for due process outside her immediate organization of assignment. Inspectors General at the Air Force Reserve Command, Secretary of the Air Force, and Department of Defense levels found her allegations of discrimination and reprisal to be unsubstantiated; therefore, no foundation for her requests for relief existed.

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 C.

On 17 Feb 23, the applicant requested reconsideration of her request to correct her official military record to reflect: 1) immediate return to AGR status, with no breaks in service; 2) extension to her MSD to allow for lost time; 3) retroactive promotion to major (O-4), with back pay; 4) coverage for medical expenses incurred while in IRR status; 5) removal of 2018 OPR and replacement with proposed draft provided by the applicant; 6) removal of 2019 referral OPR and replacement with proposed draft provided by the applicant; 7) reversal of all negative administrative actions taken against her; 8) award of the Meritorious Service Medal; and 9) her assignment of choice. She again contended the fact-based documentation she provided will clearly highlight a continual pattern and practice of gross injustice she suffered during her AGR assignment at Headquarters, Air Reserve Personnel Center (ARPC) from 2018-2020 in the form of: 1) an admission of Health Insurance Portability and Accountability Act (HIPAA) violation; 2) Career Field Managers' and senior leaders' confirmation of false official statements and allegations; 3) media and political leaders' reports and findings, and 4) documented feedback and officer performance discrepancies. She further contended administrative disciplinary actions were taken against her based on false allegations resulting in negative impact to her impeccable military career and loss of earned active duty retirement. In support of her reconsideration request, the applicant submitted the following new evidence: 1) a photographed copy of an unsigned, undated memorandum to ARPC/CC, Subject: Response to [applicant's] Letter of Reprimand (LOR) Rebuttal, with the signature block for Division Chief, Force Development; 2) a typed version of the previously noted unsigned, undated memorandum to ARPC/CC, without signature block; 3) Letter of Support, President, Member National Board of Directors, NAACP (Alabama State Conference) dated 6 Feb 23; 4) an undated letter from Dermatology Associates of Colorado detailing treatment the applicant received from 30 Jul 18 to 11 Jul 19; 5) Air Force Reserve Command (AFRC) article, "HQ ARPC Reduces Retirement Order Processing Time" dated 1 Apr 19; 6) National Guard Association of the United States (NGAUS) Report, "Many Air Guardsmen Waiting Past 60 for Retirement Pay" dated 16 Apr 19; and 7) a copy of a previous supervisor's referral OPR response.

The applicant referred to the unsigned, undated memorandum, provided as new evidence, in support of her contentions of discrimination and reprisal. Specifically, she rebutted the allegation that she was falsely claiming dermatology appointments and was instead getting facials and provided new documentation from her medical provider confirming the purpose of her appointments. Additionally, she referred to the AFRC article and NGAUS report to support her contention that ARPC system malfunctions and manning shortages were the cause of the Weather Development Team breakdown and not any alleged action or inaction on her part. Further, she rebutted statements in the memorandum regarding a previous supervisor's negative employment reference, contending the previous supervisor was retaliating against her due to the applicant elevating issues regarding forged OPR support documents, which resulted in disciplinary action against the former supervisor. In support, the applicant provided a copy of the former supervisor's response to a referral OPR that addressed this issue. Finally, the applicant highlights portions of the unsigned, undated memorandum to reiterate her contentions from her original application and provides supporting documentation previously submitted and considered by the Board.

The applicant contended she has exhausted all available administrative avenues to remedy the injustice against her, including the Air Force Board for Correction of Military Records (AFBCMR) process. While she is only presenting a fraction of new and compelling evidence, her submission will support a Report of Investigation (ROI) that may be flawed, not credible, and considered questionable due to the number of errors highlighted. The ROI echoes the false allegations levied against her by her chain of command, but also admits to disparities and discrepancies. A former supervisor from a previous assignment had admitted to forging an OPR document which affects her 2014 OPR. No actions have yet to be taken in an effort to resolve issues in her military personnel record. Additionally, Air Force Reserve senior leaders and

outside agencies confirm administrative disciplinary actions are false and resulted in negative impact on her military career with impact to military status and retirement.

The applicant's complete submission is at Exhibit D.

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 remains unconvinced the evidence presented demonstrates an error or injustice. The Board notes the basis of the applicant's request for reconsideration includes an unsigned, undated memorandum, which she presented as proof of her allegations of discrimination and reprisal by utilizing arguments and supporting evidence previously submitted and considered to rebut the contents of this document. The Board finds the additional new evidence provided by the applicant is not compelling to support the contention that personnel actions were taken against her for other than official purposes, nor did it address the applicant's contentions regarding the validity of the unsubstantiated findings of the ROI. Based on the authority granted to this Board pursuant to 10 U.S.C. § 1034, the Board reviewed the complete evidence of record to reach our own independent determination of whether reprisal occurred. Consequently, in the absence of persuasive evidence to the contrary, the Board does not find the applicant has been the victim of reprisal pursuant to 10 U.S.C. § 1034. Therefore, the Board 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 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-2021-03175 in Executive Session on 11 Jul 23:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit C: Record of Proceedings, w/ Exhibits A-B, dated 3 Aug 22.
Exhibit D: Application, DD Form 149, w/atchs, dated 17 Feb 23.

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.

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