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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00821

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COUNSEL: NONE

HEARING REQUESTED: YES

### APPLICANT'S REQUEST

1. He be converted from an Air Reserve Technician (ART) to an Air Guard and Reserve (AGR) position **Work-Product** effective 1 Oct 17.
2. He receive all pay, allowances, benefits, and retirement points for the period of 1 Oct 17 through 31 Oct 19.

### APPLICANT'S CONTENTIONS

In 2017, the Air Force Reserve converted the Cyberspace Operations Officer (Cyber) career field from ARTs to AGRs. He was assured by his leadership that he would convert from ART to AGR. However, he was under investigation for a security violation which could prohibit him from being converted to the AGR position. During the investigation, he was informed by his commander that he would be unable to convert from ART to AGR due to the uncertainty of the security investigation results. However, he met all eligibility criteria outlined in AFI 36-2132, *Active Guard/Reserve (AGR) Program*, Volume 2, dated 28 Apr 16, since it did not mention being under investigation for a security clearance as a negative consideration for an AGR position. He was informed that he lost his security clearance during the conversion period and that rendered him ineligible for the AGR position. However, his security clearance was never lost, suspended, or revoked during that period.

A few weeks later, he received the 2017 Cyber ART to AGR conversion package from AFRC. On 25 Aug 17, he was medically cleared for an AGR position. On 30 Aug 17, he signed and acknowledged the *Notice of FY18 POM and TF-C ART to AGR Conversion* letter, and on 6 Sep 17, he submitted the signed letter to his leadership via email. However, his commander attempted to block the conversion. On 23 Oct 17, AFRC/DPA informed him that his unit notified AFRC/A1K, stating he elected to not convert to AGR. On 23 Oct 17, he emailed his commander to determine how he submitted an intent to convert, but AFRC/A1 received an election not to convert. On 23 Oct 17, his commander informed him that he had more than 20 years Total Active Federal Military Service (TAFMS) and AFRC/A1 was reviewing the rule to ensure he was eligible. On 30 Oct 17, he contacted AFRC/A1 for the status of his conversion package and was informed they were still researching the issue. He confirmed with ARPC AGR Assignments that his 20 years of TAFMS was not an issue. In Dec 2017, his commander instructed him to cease and desist in contacting ARPC and stop pursuing the AGR conversion until the security clearance investigation was complete.

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On 6 Feb 19, he was notified by his commander that on 23 Jan 19, the investigation concluded, and his security clearance was restored. On 6 Feb 19, he reengaged with his new commander to start the conversion from ART to AGR again, and his commander acknowledged the request by noting "Leadership is also aware and addressing this."

It is his belief he was denied the conversion from ART to AGR because the previous commander believed his security clearance was suspended during the investigation. His new commander has not acknowledged that he did not lose his clearance; however, advised him to file a complaint with AFRC/IG. On 15 May 19, AFRC/IG recommended that he appeal to AFBCMR.

The applicant's complete submission is at Exhibit A.

## STATEMENT OF FACTS

The applicant is an Air Force Reserve lieutenant colonel (O-5).

According to AF Form 707, *Officer Performance Report (Lt thru Col)*, for period of report 1 Apr 18 thru 7 Sep 18, the applicant received an evaluation and Block IV notes under performance feedback that, "No feedback conducted during this period; no contact made with the member due to his lack of network and bldg access."

According to his Report on Individual Personnel, pulled 1 Aug 22 from the Statistical Analysis and Retrieval System (STARS), the applicant's last security clearance status date was completed on 12 Sep 19 and indicates he is cleared with a Sensitive Compartmented Information (Secret) clearance.

## APPLICABLE AUTHORITY/GUIDANCE

AFI 36-2110, Total Force Assignments, dated 5 October 2018 outlines the AGR eligibility in paragraph 12.9., and paragraph 12.9.6., specifically identifies that security clearances are an eligibility requirement for AGR Assignments.

## AIR FORCE EVALUATION

AFRC/A1KK recommends denying the application. There is no evidence of an error or injustice. The applicant was assigned to an ART position that was scheduled to convert to an AGR position in Oct 17. The applicant contends he met the eligibility criteria for the AGR position outlined in AFI 36-2110, *Total Force Assignments*; however, his chain of command denied the conversion due to a security investigation. The applicant believes the security clearance should not have been the reason he was denied the position. The Base Network Operations Squadron's noted the applicant's security clearance was suspended (or removed) due to a security incident involving improper use of government equipment. He was barred from accessing the facility and was removed from his ART position pending resolution of the security clearance. His ART position required a Top-Secret clearance. Although the position was identified by AFRC for conversion, the applicant was not qualified for his ART position or the conversion to AGR position since it also required a Top-Secret clearance.

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 7 Jul 22 for comment (Exhibit D), and the applicant replied on 7 Aug 22. In his response, the applicant contended the advisory opinion contains inaccurate information that continues to be perpetuated and the Board would be deciding based on this false information. The applicant notes that his security clearance was never suspended, nor was he unqualified for the ART or AGR position due to not having a Top-Secret security clearance and provided a copy of 21 Aug 18 Joint Personnel Adjudication System (JPAS) report that shows his security clearance was never suspended. He further notes that he was never removed from his ART position, and that improper use of government equipment was not one of the items listed on the thirteen Adjudicative Guidelines for initiating an investigation.

The applicant's complete response is at Exhibit E.

## 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 AFRC/A1KK and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes that in accordance with AFI 36-2110, *Total Force Assignments*, outlines the AGR eligibility and specifically identifies that security clearances are an eligibility requirement for AGR Assignments. While the applicant may or may not have lost his security clearance during the time he requested his position be converted to an AGR position, he has not provided evidence to show that he was not under investigation. In this regard, the Board agrees that the commander had the authority to withhold the conversion until his investigation was complete. 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.

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## 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-2022-00821 in Executive Session on 30 Aug 22 and 16 Sep 22:

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

Exhibit A: Application, DD Form 149, w/atchs, dated 8 Mar 22.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFRC/A1KK, w/atchs, dated 27 Jun 22.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 7 Jul 22.

Exhibit E: Applicant's Response, w/atchs, dated 7 Aug 22.

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.

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