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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02720

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

### APPLICANT'S REQUEST

His twice non-selections for promotion to major (O-4) be removed from his record and he be considered for promotion by a special selection board (SSB) for the following boards:

1. CY22 Air Force Reserve (AFR) Line and Nonline Major Promotion Selection Board (V0422A).
2. CY23 AFR Line and Nonline Major Promotion Selection Board (V0423A).

### APPLICANT'S CONTENTIONS

He was considered for promotion to major twice and was non-selected. His Officer Selection Brief (OSB) that met both boards were incomplete as it did not reflect his 2020 and 2021 Officer Performance Reports (OPRs) and as of 20 Aug 23, his 2022 OPR is still being processed by the Air Force Operation Test and Evaluation Center (AFOTEC) and Air Force Reserve Center (AFRC). Additionally, due to a massive delay between the Air National Guard (ANG) and AFRC personnel systems, a valid Promotion Recommendation Form (PRF) failed to be presented to either promotion board.

These issues were due to his transfer from the Pennsylvania ANG (PA ANG) to the AFR. He initially applied for transfer on or about 4 Nov 20; however, final approval came nine months later in Aug 21 due to personnel availability disruptions caused by COVID-19 and confusion amongst the various ANG and AFRC offices regarding the correct forms and procedures to process a transfer. Finally, three months later the PA ANG and the National Guard Bureau (NGB) completed their final separations actions, backdated to Aug 21 to reflect no break-in service, and AFRC officially "gained" him in Dec 21.

During this protracted transfer process, his DoD ID card was disabled, base access revoked, and his AFNet email accounts were deactivated. Therefore, he was not notified by any agency or unit his mandatory promotion board was scheduled to convene, nor was he able to perform a records review and submit any documentation to the board. Had he been able to perform a records review, it would have revealed the Military Personnel Data System (MilPDS) reflected an unsatisfactory service year due to his lack of AFNet access and ability to certify duty performance. This unsatisfactory year has been subsequently rectified, but not until well after the V0422A board had met.

At the end of Apr 22, his Air Force email and network accounts were finally restored and a month later, May 22, he was notified by AFOTEC Det 2 of his non-selection for promotion by the V0422A board. On 25 Jan 23, he finally received his PA ANG OPR (2021) for the period of

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Controlled by: SAF/MRB

CUI Categories: Work-Product

Limited Dissemination Control: N/A

POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

28 Nov 20 – 15 Aug 21, which was processed and uploaded to the Personnel Records Displays Application (PRDA). However, as of 23 Aug 23, MilPDS still reflects “NA” for both his 2020 and 2021 OPRs. Finally, due to the cascading delays, to include AFOTEC commander “turnover,” his 2022 OPR is still being processed by AFOTEC and AFRC.

The delays in processing his OPRs, which were exacerbated by the delays in making the MyEval system operational prevented AFOTEC Det 2 from submitting a Promotion Recommendation Form (PRF) package for the CY23 (V0423A) promotion board. He was in constant contact with the PA ANG, who indicated the OPRs would be completed and submitted in time; however, the 9 Oct 22 deadline to request non-consideration by the V0423A board passed and he was unable to request an extension.

Therefore, due to the accumulation of circumstances and no-fault of his own, and despite the active efforts by many individuals on his behalf, both the V0422A and V0423A promotion boards were not presented a complete and correct OSB on which to base a fair and accurate evaluation for promotion. He makes this request with the expressed consent and support of his chain of command and AFOTEC leadership as all other avenues have been exhausted.

The applicant’s complete submission is at Exhibit A.

## STATEMENT OF FACTS

The applicant is an AFR captain (O-3).

On 15 Aug 21, according to NGB Form 22 EF, *Report of Separation and Record of Service*, the applicant was honorably separated from the PA ANG. Block 23, *Authority and Reason*, reflects transfer in grade to USAFR Unit/Not ARPC.

On 16 Aug 21, according to *Aeronautical Order (PA) Aviation Service*, Order Number [Work-Prod...] effective 15 Aug 21, and Special Order [Work-Product] dated 4 Oct 21, the applicant was honorably discharged from the PA ANG effective 15 Aug 21 and assigned to USAFR as an Individual Manpower Augmentee (IMA) in position [Work-Product] without incurring a break-in service.

On 23 Aug 21, ARPCM 21-22, *CY22 Air Force Reserve Line and Nonline Major Promotion Selection Boards Convening Notice*, dated 23 Aug 21 was released and announced the V0422A, CY22 USAFR Major Mandatory Participating Reserve Board was scheduled to convene on 24 Jan 22.

On 12 Aug 22, ARPCM 22-25, *CY23 Air Force Reserve Line and Nonline Major Promotion Selection Boards Convening Notice*, dated 12 Aug 22 ( Change 2, 3 Jan 23), was released and announced the V0423A, CY23 USAFR Major Mandatory Participating Reserve Board was scheduled to convene on 23 Jan 23.

On 21 Nov 22, according to the HQ ARPC memorandum, *Board Discrepancy Report for Board ID: V0423A*, reflects the last report on file (evaluation) was for the reporting period of 28 Nov 19-27 Nov 20. Additionally, it reflects its missing the current 2021 OPR (for the period of 28 Nov 20 – 15 Aug 21). Further, it states that “We have contacted the unit and/or member to obtain the missing document(s) or to update the personnel database. At this point, we have not received the document or update has not occurred.”

On 5 Dec 22, according to AF Form 707, for the reporting period of 28 Nov 20 – 15 Aug 21, reflects the report was signed by his rater. Additionally, it reflects the additional rater signed on 6 Dec 22 and the reviewer signed on 19 Jan 23. On 25 Jan 23, it was signed by the applicant.

On 3 May 23, according to AF Form 707, for the reporting period of 16 Aug 21 - 15 Aug 22, the report was signed by his rater. Additionally, the report was signed by the additional rater on 17 Jul 23, and the reviewer on 25 Jul 23. On 27 Jul 23, it was signed by the applicant.

On 2 Jan 24, a printout from MilPDS reflects the applicant was twice non-selected for promotion.

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

### **APPLICABLE AUTHORITY/GUIDANCE**

10 United States Code (USC) 628, *Special Selection Boards*, paragraph b, Persons Considered by Promotion Boards in Unfair Manner, states if the Secretary of the military department concerned determines, in the case of a person who was considered for selection for promotion by a promotion board but was not selected, that there was material unfairness with respect to that person, the Secretary may convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion. In order to determine that there was material unfairness, the Secretary must determine that: (A) the action of the promotion board that considered the person was contrary to law in a matter material to the decision of the board or involved material error of fact or material administrative error; or (B) the board did not have before it for its consideration material information.

10 USC 14502, *Special Selection Boards: correction of errors*, paragraph b, Officers considered but not selected; Material Error, states that in the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under this chapter by a mandatory promotion board convened under section 14101(a) of this title but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that: (A) the action of the mandatory promotion board that considered the officer or former officer was contrary to law in a matter material to the decision of the board or involved material error of fact or material administrative error; or (B) the mandatory promotion board did not have before it for its consideration material information.

Department of Defense Instruction (DoDI) 1320.11, *Special Selection Boards*, paragraph 3.b, A Special Selection Board must not, pursuant to section 628(b) or 14502(b) of Reference (c), consider any person who by maintaining reasonably careful records may have discovered and taken steps to correct that error or omission on which the original board based its decision against promotion.

Air Force Instruction (AFI) 36-2406, *Officer and Enlisted Evaluation System*, 14 Nov 19, Paragraph 1.4, *Preparing and Processing Evaluation*, OPRs are due to the military personnel flight (MPF) no later than 30 calendar days after close-out and will be filed in the Automated Records Management Systems/Personnel Records Display Application (ARMS/PRDA) no later than 60 calendar days after close-out. Finally, in accordance with paragraph 1.4.3, an evaluation becomes a matter of record once they are uploaded into ARMS/PRDA. This is further codified by paragraph 3.9.8, *Routing Evaluations*, which states that performance evaluations are due to the

servicing MPF or personnel activity 30 days after close-out, and to the office of record 60 days after close-out.

*CY22 Air Force Reserve Line and Nonline Major Promotion Selection Boards Convening Notice*, 12. Officer Performance Reports (OPRs): Do not e-mail evaluations to HQ ARPC. Evaluations will be routed within the unit and then sent to HQ ARPC/DPTSE via vPC for final processing (AFI 36-2406, *Officer and Enlisted Evaluation System*, para 1.4.). For officers to receive fair and full consideration, it is imperative that reports due before the board convenes be completed and submitted on time. IAW AFI 36-2406, para 1.4.2.3, completed OPRs are due to HQ ARPC/DPTSE no later than 45 days after closeout. Annual and Change of Reporting Official OPRs closing out Day 60 or earlier, must be completed and in the Automated Records Management System (ARMS) before the board convenes. HQ ARPC makes every effort to ensure evaluations submitted via vPC prior to the board convening date are presented to the board. However, only those with a closeout date 60 days before the convening date are considered mandatory documents for the board.

## AIR FORCE EVALUATION

ARPC/PB recommends denying the request. The applicant was eligible for and met both the mandatory major V0422A and V0423A promotion boards and was non-selected for promotion by both boards. Although the applicant contends the information on his OSB was wrong for both boards, specifically, his 2021 and 2022 OPRs along with his deployment information were not reflected, it must be noted OSBs for Reserve boards do not display OPR or deployment information. Additionally, while his OSB for the V0422A board reflected a “bad” year, which has since been corrected, there is no justification to correct the OSB as at the time of the board the error was not brought to the board’s attention and there is no evidence the applicant made attempts to correct the record prior to the board convening.

The applicant’s 2021 OPR, for the period of 18 Nov 20 – 15 Aug 21, was not finalized (signed) by the applicant until 25 Jan 23. Additionally, his 2022 OPR, for the period of 16 Aug 21 – 15 Aug 22, was not finalized until 27 Jul 23. The V0422A board convened on 24 Jan 22 and the V0423A board convened on 23 Jan 23. As such, neither OPRs were included in his OSR for either board as they were both finalized after both boards convened. While his V0423A OSR contains a Missing Document Request (MDR) informing the board his 2021 OPR was missing from his record, his V0422A board OSR does not contain this information. Since they cannot pull old data from MilPDS, the assumption is the 2021 OPR was most likely reflecting a close-out date of 27 Nov 21, vice 15 Aug 21, which is within the 60-day window of when the board convened on 24 Jan 22, which is why a MDR was not generated.

Lastly, while the applicant contends a valid PRF was not presented to either the V0422A or V0423A boards, it must be noted in the Air Reserve Component, PRF’s are not required for officer’s meeting a mandatory promotion board, unless the officer’s senior rater is submitting a “Do Not Promote” recommendation.

In accordance with AFI 26-2504, Chapter 2, *Roles and Responsibilities*, paragraph 2.8, *Eligible Officer*: monitors their eligibility to ensure their OSR is correct and current before the convening of the selection board; reviews their OPB for accuracy of personnel data, any adverse information, and takes necessary steps to correct errors; considers submitting a letter to the board, if applicable; and reports any errors to the MPF or equivalent human resource support function or other point of contact listed on the OPB instruction sheet. However, there is no evidence or supporting documentation that shows he made attempts to correct the errors in his record prior to the promotion boards convening, nor is there any evidence or supporting documentation that shows he made attempts to clarify errors or missing documents via a letter to the promotion boards.

Therefore, the request to remove the two non-selections for promotion to major and grant special selection boards consideration should be denied.

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 16 Oct 23 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 the ARPC/PB and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the Board could not determine the reason(s) why his OPRs were not completed and entered in the Personnel Records Display Application (PRDA) IAW AFI 36-2406, the Board notes ARPC contacted the unit/and or applicant to obtain the missing documents or to update the personnel database prior to the V0423A promotion board, but no documentation or updates had been received. In this regard, the Board determines the governing directive to be DoDI 1320.11, *Special Selection Boards*, which states "a SSB must not consider any person who by maintaining reasonably careful records may have discovered and taken steps to correct that error or omission on which the original board based its decision against promotion." Further, the applicant contends a valid PRF failed to be presented to either promotion board; however, the Board notes, according to CY22 and CY23 Air Force Reserve Line and Nonline Major Promotion Selection Board Convening Notices, PRF's are only required for position vacancy, not mandatory promotion boards. In addition, the convening notices state he may correspond by letter, with the board president, calling to attention any matter that he believed important for consideration, such as the missing OPRs but, the available evidence suggest he did not. Lastly, according to AFI 36-2504, *Officer Promotion, Continuation and Selective Early Removal in the Reserve of the Air Force*, requires officers to monitor their own eligibility for promotion and to ensure their OSR is correct and up to date prior to the convening of the board. As such, the Board finds the applicant provided insufficient evidence he exercised reasonable due diligence to discover the error or omission in his record and took any corrective action. Therefore, 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**

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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-2023-02720 in Executive Session on 13 Feb 24.

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Panel Chair

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Panel Member

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Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 20 Aug 23.

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

Exhibit C: Advisory Opinion, ARPC/PB, dated 29 Sep 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Oct 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.

2/4/2025

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Board Operations Manager, AFBCMR

Signed by:

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