

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2025

DOCKET NUMBER: AR20240005486

APPLICANT REQUESTS: Special Selection Board (SSB) for promotion to lieutenant colonel (LTC)

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Memorandum Request Promotion Reconsideration and attachments

FACTS:

1. The applicant states, in pertinent part:

- On 18 April 2024, the U.S. Army Human Resources Command (AHRC) Department of the Army (DA) promotion board stated his request for an SSB was denied
- The memorandum stated the reason for an officer's non-selection is unknown because of statutory requirements
- AHRC could only conclude that the promotion board determined the applicant's overall record did not reflect as high a potential as those selected
- The reasons the applicant stated, on his request for an SSB, would not be grounds for an SSB because it is considered hearsay
- This boilerplate rationale would apply to, and eliminate, literally every request for an SSB
- To summarize AHRC's argument, the board's decision is always right and ineffable as we can never know why they made their decision

2. The applicant provides and his service record shows:

- On 27 July 2009, he took the oath of office as a Regular Army Judge Advocate General officer
- On 20 September 2016, Orders were published promoting him to major (MAJ)/O4, effective 9 October 2016
- Fiscal Year (FY) 2022 Active Component (AC) LTC Judge Advocate Corps (JAGC) Promotion Selection Board (PSB) Demographics

- On 13 June 2023, he received an email stating his duty title for his 2009 assignment had been updated
- On 26 February 2024, he requested reconsideration of his promotion as the PSB actions were materially unfair in that it acted contrary to law in a matter material to the decision of the board and the board did not have before it, for its consideration, some material information
- On 18 April 2024, he completed a memorandum for the promotion board stating he had been twice non-selected for promotion to LTC; the reason for his non-selection was either because he has had the wrong kind of assignments or because of his race and gender
- Letters of recommendation for promotion

3. On 10 February 2025, a Human Resources Specialist, Officer Promotions Special Actions, AHRC provided an advisory opinion, which states, in pertinent part:

- The applicant was considered for the FY 2023 AC LTC JAGC PSB; he was not recommended for promotion
- He was considered for the FY 2024 AC, LTC, JAGC, PSB and was not recommended for promotion
- He was subsequently considered and recommended for Selection Continuation (SELCON) by the FY 2024 SELCON
- He will continue to be eligible for subsequent promotion boards to the rank of LTC
- The reasons for his non-selection are unknown because statutory requirements prevent disclosure of these proceedings to anyone outside the promotion board in question
- It can only be determined the promotion board determined his overall record did not reflect as high a potential as those selected
- Reconsideration can only occur as a directive by the Board
- He contends he was not selected based on material unfairness
- Although he claims he was told he was not selected because he was a white male, there is nothing to suggest this contention is substantiated or that the results of this promotion selection board were unfair or unjust
- All officers may submit correspondence to the president of the Board
- If he believed there were material errors in his file, he was afforded the opportunity to submit matters for consideration
- He viewed his Board file on 15 May 2023
- He failed to certify prior to the convene date of the Board to ensure completeness, nor did he upload matters to the president of the Board for consideration

4. On 12 February 2025, the advisory opinion was provided to the applicant to allow him the opportunity to respond. On 13 and 14 February 2025 the applicant responded stating in pertinent part:

- He requests a SSB to reconsider his promotion as the PSB's actions were materially unfair in that it acted contrary to law in a matter material to the board's decision
- The promotion Board did not have before it, for its consideration, some material information
- PSBs are fallible and thus reviewable
- AHRC never released the FY 2023 AC LTC JAGC PSB Memorandum of Instruction (MOI) or demographic results for his Board
- These official documents indicate both a discriminatory intent and a discriminatory effect where white males were the clear victims
- It is a zero-sum game - demanding increased "diversity" necessarily means forcing decreased promotion opportunities for white males
- If AHRC is so certain the promotion board fairly decided he did not merit promotion, there should not be an issue with an SSB reevaluating their decision
- You can prove discriminatory intent and impact; You have to know about discrimination before you can file a complaint about it
- He did not send a letter to the Board president for the FY 2023 promotion board; he did not hear about the anti-white male discrimination until after the FY 2023 Board
- AHRC does not want to be proven wrong
- He filed a Freedom of Information Act (FOIA) request for a copy of the Board MOI; his request was denied
- He asked AHRC for an SSB; AHRC denied his request stating he could not prove discrimination because promotion Board proceeding cannot be disclosed
- His FY 2023 LTC promotion Board file merits reconsideration
- His supervisors told him the only reason he did not get promoted is because he is a white male and there is no incentive for the JAGC to promote a white male
- He viewed his Board file in May 2023, but did not certify it by the suspense date in July 2023; he did not certify because the Board file was incorrect
- He repeatedly tried to correct his board file; however, the corrections made his Board file worse; he could not certify it as correct as that would have been untrue
- He and a white female, who received an SSB, had the same issue when requesting an SSB; hers was approved; his, a white male, was disapproved
- AHRC cannot tell why he was not promoted; but they state it certainly was not because of anti-white male discrimination

5. The applicant provided the following documents, not previously considered, with his rebuttal:

- Excerpt of JAGC LTS PSB MOI, both the FY 2022 and FY 2023 LTC PSB information has been removed
- Excerpt of FY 2024 LTC JAGC PSB
- Excerpt from Executive Order (Restoring America's Fighting Force)
- Excerpt from Executive Order 13950 (Combating Race and Sex Stereotyping)
- Excerpt from Defense Memorandum (Restoring America's Fighting Force)
- FOIA response denying his request for the LTC JAGC MOI
- AHRC's denial of his SSB request
- Approved SSB request by female to AHRC
- His 26 February 2024 request to HRC for an SSB

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the U.S. Army Human Resources Command – Officer Promotions Special Actions advisory opinion, the Board concurred with the advising official finding the applicant was considered by the FY 2024 Active Component (AC) LTC JAGC, PSB but not recommended. The opine noted, the applicant was also considered for the FY24 AC LTC JAGC PSB board and was not recommended for promotion.

2. The Board noted the specific reasons for the applicant's non-selection remain unknown, as the statutory provisions outlined in Title 10, U.S. Code, § 14104 prohibit the disclosure of Reserve Selection Board proceedings to any individual outside the board. Therefore, it can only be concluded that the promotion board assessed the applicant's record in comparison to those of his contemporaries and determined that his overall potential did not merit selection at that time. The Board acknowledged the applicant's contentions that his non-selection was the result of material unfairness. The applicant specifically claims that a senior leader informed him he was not selected due to being "a white male," suggesting that race was a determining factor in the board's decision. However, the Board determined there is no verifiable evidence to support this allegation, nor is there any indication that the board's proceedings or outcomes were conducted in an unfair or unjust manner. Furthermore, evidence shows the applicant failed to certify his Board record prior to the convene date of the Board to ensure completeness, in addition, he did not upload matters to the president of the Board for consideration. Based on the advising opine and preponderance of evidence, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

: : : GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

■ ■ ■ DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

X

[Redacted Signature]

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation (AR) 600-8-29 (Officer Promotions), prescribes the officer promotion function of military human resources (HR) support operations.

a. Paragraph 6–2 (Special Selection Board). SSBs may be convened under Title 10, USC, section 628 to consider or reconsider commissioned or warrant officers for promotion when HQDA determines that one or more of the following circumstances exist:

(1) Administrative error (SSB required). An officer was not considered from in or above the promotion zone by a regularly scheduled board because of administrative error.

(2) Material unfairness (HRC discretionary), (a) The action of the promotion board that considered the officer from in or above the promotion zone was contrary to law in a matter material to the division of the board or involved material error of fact or material administrative error or (b) The board that considered the officer from in or above the promotion zone did not have before it for its consideration material information.

b. Paragraph 6–7 (Information provided to SSBs), an SSB will consider the record of the officer as it should have been considered by the original board. The record will be compared with a sampling of those officers of the same competitive category, who were recommended and not recommended for promotion by the original selection board.

c. Paragraph 7–2 (Basis for referral to Promotion Review board), HQDA will continuously review promotion lists to ensure that no officer is promoted where there is cause to believe that he or she is mentally, physically, morally, or professionally unqualified to perform the duties of the higher grade. An officer may be referred to a PRB for the following reasons (the list is not exclusive):

- a referred evaluation reports
- punishment under Uniform Code of Military Justice, Article 15 (whether filed in the restricted or performance file of the Army Military Human Resources Record (AMHRR))
- any court-martial conviction
- a memorandum of reprimand placed in the AMHRR
- adverse documentation filed in the AMHRR
- initiation of elimination action
- failure to make satisfactory progress in the Army Body Composition Program

other adverse information received by HQDA but not filed in the AMHRR, if the referral authority finds that the information is substantiated, relevant, and might reasonably and materially affect a promotion recommendation

2. Title 10 USC, section 628 (Special Selection Boards), (a) Persons Not Considered by Promotion Boards Due to Administrative Error. (1) If the Secretary of the military department concerned determines that because of administrative error a person who should have been considered for selection for promotion from in or above the promotion zone by a promotion board was not so considered, the Secretary shall convene a SSB under this subsection to determine whether that person should be recommended for promotion. (b) Persons Considered by Promotion Boards in Unfair Manner. (1) 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 SSB under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion.

//NOTHING FOLLOWS//