RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2009-01720

INDEX CODE: 111.01

XXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His Officer Performance Report (OPR) rendered for the period 2 Apr 06 through 30 May 07 be declared void and removed from his records, and a reaccomplished OPR be accepted for file in its place.

His corrected record be considered for promotion to the grade of lieutenant colonel by a Special Selection Board (SSB) for the Calendar Year 2007B (CY07B) Lieutenant Colonel Central Selection Board (CSB).

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APPLICANT CONTENDS THAT:

The applicant contends the OPR in question is an incorrect assessment of his performance due to inadvertent omissions by foreign raters/additional raters who were unfamiliar with the US Air Force evaluation and promotion system. Specifically, applicant contends his international chain of command did not understand the significance of push lines and stratification statements to the promotion process. Applicant concedes that the contested OPR technically fits within the framework of AFI 36-2406, Officer and Enlisted Evaluation Systems, but insists that it was written in a way that erroneously decreased career opportunities by unjustly placing him at a competitive disadvantage compared to his peers in other wings.

In support of his request, the applicant provides copies of the contested OPR, supporting statements from his rating chain, and a signed proposed replacement OPR.

The applicant’s complete submission, with attachments is at Exhibit A.

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STATEMENT OF FACTS:

Information extracted from the Military Personnel Data System (MilPDS) indicates the applicant was appointed a second lieutenant, Reserve of the Air Force, on 14 May 93 and was voluntarily ordered to extended active duty on 15 Nov 93. He was progressively promoted to the grade of major, with an effective date and date of rank of 1 Jan 04.

The applicant’s record indicates that he has two nonselections to the grade of lieutenant colonel by the CY07B and CY08B Lieutenant Colonel CSB.

The overall recommendation on his Promotion Recommendation Form (PRF) in both cases was “Promote.” The PRF that met the promotion board in question included both stratification and push statements. In both PRFs the commander indicated the applicant would have received a “Definitely Promote” if he had one more to give.

OPR profile since 1999 follows:

PERIOD ENDING EVALUATION OF POTENTIAL

17 Mar 00 Training Report

15 Mar 01 Meets Standards

15 Mar 02 Meets Standards

6 Jun 03 Meets Standards

10 Apr 04 Meets Standards

10 Apr 05 Meets Standards

1 Apr 06 Meets Standards

28 Aug 06 Training Report

\*# 30 May 07 Meets Standards

## 30 May 08 Meets Standards

9 May 09 Meets Standards

\* Contested Report

# Top Report at the time he was considered and nonselected for promotion to the grade of lieutenant colonel by the CY07B Lieutenant Colonel CSB.

## Top Report at the time he was considered and nonselected for promotion to the grade of lieutenant colonel by the CY08B Lieutenant Colonel CSB.

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AIR FORCE EVALUATION:

AFPC/DPSIDEP recommends denial of the applicant’s request to substitute the contested OPR with a revised report, indicating there is no evidence of an error or injustice. After reviewing the contested report and the applicant’s proposed replacement, DPSIDEP concluded the contested report captured the applicant’s accomplishments, noting the proposed replacement report merely magnified the significance of the same accomplishments while also including stratification from the rater and additional rater. Furthermore, AFI 36-2401 stipulates that a report is not erroneous or unfair because the applicant believes it contributed to a non-selection for promotion. Additionally, the willingness of evaluators to upgrade, rewrite or void a report is not a valid basis for doing so. They also note that the applicant’s recent appeal through the Evaluation Reports Appeal Board (ERAB) was denied for similar reasons. Additionally, the reviewer of the contested OPR, an Air Force officer, could have intervened and had the report adjusted before it became a matter of record.

A complete copy of the DPSIDEP evaluation is at Exhibit C.

AFPC/DPSOO recommends denial of the applicant’s request for SSB consideration, indicating that their evaluation is based on AFPC/DPSIDEP’s recommendation to deny replacing the contested OPR with a substitute report.

A complete copy of the DPSOO evaluation is at Exhibit D.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant contends the DPSIDEP evaluation is simply a reiteration of the ERAB conclusion and a cut-and-paste justification from AFI 36-2401. He understands the narrow interpretation of the ERAB and looks forward to the broad perspective the AFBCMR will bring. That said, he points out that while the absence of optional statements do not normally form the basis for a successful appeal, his case is an exception to the norm and warrants further consideration. Additionally, he takes issue with DPSIDEP position that the reviewer could have stepped in and remedied the situation before the contested OPR became a matter of record.

A complete copy of the applicant’s response, with attachments, is at Exhibit E.

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THE BOARD CONCLUDES THAT:

1.  The applicant has exhausted all remedies provided by existing law or regulations.

2.  The application was timely filed.

3.  Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. We took notice of the applicant's complete submission in judging the merits of the case, including the statements from his rating chain. However, we agree with the opinions and recommendations of the Air Force offices of primary responsibility (OPRs) and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Therefore, in the absence of sufficient evidence the contested report is an inaccurate depiction of his performance at the time it was rendered, we find no compelling basis to recommend granting the relief sought in this application.

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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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The following members of the Board considered AFBCMR Docket Number BC-2009-01720 in Executive Session on 7 Oct 09, under the provisions of AFI 36-2603:

Mr. James W. Russell III, Panel Chair

Mr. Noble K. Eden, Member

Mr. Mark J. Novitski, Member

The following documentary evidence was considered:

Exhibit A.  DD Form 149, dated 1 May 09, w/atchs.

Exhibit B.  Applicant's Master Personnel Records.

Exhibit C.  Letter, AFPC/DPSIDEP, dated 11 Jun 09.

Exhibit D.  Letter, AFPC/DPSOO, dated 16 Jun 09.

Exhibit E.  Letter, SAF/MRBR, dated 26 Jun 09.

Exhibit F.  Letter, Applicant, 15 Jul 09, w/atchs.

JAMES W. RUSSELL III

Panel Chair