

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00099

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

One of his non-selections to the rank of major on the Calendar Years 2009 (CY09) and 2010 (CY10) Line and Health Professions Nonparticipating Reserve (NPR) Major Promotion Selection Boards be expunged from his record.

APPLICANT CONTENDS THAT:

He received two consecutive non-selections for promotion to major while in the inactive reserves, and they would constitute unmerited prejudice against him if he were to join the Connecticut Air National Guard (ANG). His reserve record and combat experience would have merited a promotion had he stayed on active duty or immediately transferred to the ANG. This would allow him to join the Connecticut ANG.

In support of his request, the applicant provides copies of two memos from an ANG Group Commander stating his desire to hire the applicant.

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

STATEMENT OF FACTS:

The applicant initially entered active duty on 14 Jul 99.

On 29 Sep 07, he separated from active duty under a Voluntary Separation Program (VSP) and was credited with 8 years, 2 months, and 16 days of active service.

On 23 Sep 09, he was a non-selected for promotion to the grade of major (O-4) by the CY09 Line and Health Professions Nonparticipating Reserve (NPR) Major Promotion Selection Board.

On 1 Feb 10, he was again non-selected for promotion to the grade of major (O-4) by the CY10 Line and Health Professions Nonparticipating Reserve (NPR) Major Promotion Selection Board.

The remaining relevant facts pertaining to this application are described in the letter prepared by the Air Force office of primary responsibility (OPR) which is included at Exhibit C.

AIR FORCE EVALUATION:

ARPC/DPB recommends removing both non-selections to major from the applicant's records. Both of the promotion boards on which he was non-selected had a quota of one officer to promote. The applicant was not that officer. The applicant was discharged from all appointments on 30 Sep 10. ANG policy prohibits any officer in a twice-deferred status from obtaining an appointment with the ANG. However, the applicant is no longer a twice deferred officer. The applicant is a civilian and, therefore, cannot be in a twice deferred status. There is nothing in the law that prohibits reappointment of a former officer, even if that former officer was previously deferred twice. If the applicant re-entered military status, he would have a "clean slate."

A complete copy of the ARPC/DPB's evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 1 Mar 12 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit D).

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 find no evidence of error in this case and after thoroughly reviewing the documentation that has been submitted in support of applicant's appeal, we do not believe he has suffered from an injustice. The Board notes the assertion by AFPC/DPB that there is nothing in law that prohibits reappointment of a former officer, even if that former officer was previously twice

deferred, and that if the applicant re-entered military status he would have a "clean slate." Given that the applicant does not contend there was an error or injustice in his being twice non-selected for promotion, coupled with the Air Force OPR's assertion that there is no restriction against reappointing him, the Board believes that no relief is required or warranted. Further, granting the applicant's request would be inconsistent with existing Air Force policy. Therefore, based on the available evidence of record, we find no basis upon which to favorably consider this application.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD DETERMINES THAT:

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

The following members of the Board considered AFBCMR Docket Number BC-2012-00099 in Executive Session on 7 Nov 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 9 Jan 12, W/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPB, dated 14 Feb 12.
- Exhibit D. Letter, SAF/MRBR, dated 1 Mar 12.

Panel Chair