

Less Than Special

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Matthew T. Crumley began serving as a commissioned officer on active duty in the Air Force in 2000, eventually achieving the rank of Major in 2008. In November 2010, he was injured while serving as an Honor Guard Ceremonial Guardsman during a funeral ceremony. He sent an email to senior Air Force officials detailing the incident and asking the Air Force to address the situation. The Air Force sent him a formal letter of admonishment for sending this email, advising him that he had bypassed his normal chain of command and stating that had acted unprofessionally. Based on this email, Crumley later received an evaluation that included this negative email.

Crumley sought administrative review, asking that the negative evaluation report with this email be voided. During that review process, the Air Force Reduction in Force Board informed him that due to a reduction in forces for budgetary reasons, he was being discharged from the Air Force.

Having unsuccessfully appealed the termination decision, Crumley sued in the U.S. Court of Federal Claims seeking back-pay, reinstatement, and correction of his military record. The Government moved to dismiss, arguing that the CFC lacked jurisdiction because Crumley had not sought review of the termination decision by a “special board.” Under 10 U.S.C. § 1558, judicial review of military pay claims is confined to cases where the plaintiff challenges a decision of a selection board. But before an individual can seek review by a selection board, that individual must first seek review by a special board. Under Section 1558 (b)(1)(A), a special board is a “board that the Secretary convenes under any authority to consider whether to recommend a person for . . . retention . . . instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person.”

Crumley argued that he had followed the appeal procedures provided to him by the Air Force “at each step of the process.” The Court, however, agreed with the Government, holding that “[i]t is plaintiff’s burden to establish subject-matter jurisdiction. He must show from the administrative record that the corrections board was convened as a ‘special board’ under the statute. Plaintiff has not done so, and we are unable to find any indication of such in the record.”

Read J. Bruggink’s full decision [here](#).