RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2016-00491

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His prior rank of Senior Airman (SrA) be reinstated.

APPLICANT CONTENDS THAT:

After his third Fitness Assessment (FA) failure he was demoted to Airman First Class (A1C), but it was due to his squadron’s policy and not to Air Force regulations. He was on a restricted profile that did not allow him to work out due to a knee problem that required surgery.

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

STATEMENT OF FACTS:

The applicant initially entered the Regular Air Force on 8 Jul 08.

On 7 May 13, the applicant’s commander notified him he was recommending the applicant for demotion. The reasons for taking this action were:

a.  On or about 5 Mar 13, the applicant failed his third individual Fitness Assessment (FA) in a 24-month period.

b.  On 12 Mar 13, the applicant received a Letter of Reprimand (LOR) for failing his FA with a score of 72.00, and an Unfavorable Information File (UIF) was established.

c.  On or about 1 Nov 12, the applicant failed to wear his physical training uniform to his mandatory military appointment. For this, he received a Letter of Counseling (LOC).

On 30 May 13, the applicant’s demotion case was reviewed and determined to be legally sufficient. The applicant signed the document concurring with the demotion action, waiving his right to a personal hearing, and acknowledging he had consulted with legal counsel.

Under Special Order AA-021, dated 7 Jun 13, the applicant was demoted from the grade of Senior Airman to the permanent grade of Airman First Class, with an effective date of 3 Apr 13.

On 12 Jul 13, the applicant was furnished an honorable discharge, with a narrative reason for separation of “Physical Standards,” and was credited with five years and five days of total active service.

The remaining relevant facts pertaining to this application are contained in the memoranda prepared by the Air Force offices of primary responsibility (OPRs), which are attached at Exhibits C and D.

AIR FORCE EVALUATIONS:

AFPC/DP2SSM recommends denial indicating there is no evidence of an error or an injustice. AFI 36-2905, *Fitness Program*, paragraph 3.10.4. states, “Scoring for exemptions: Members with an AF Form 469 prohibiting them from performing one or more components of the FA will have a composite score calculated on the assessed components. AC will be performed on all members, unless exempted by medical provider IAW paragraph 5.2, since there is no risk to the member. Members must achieve a minimum of 75 adjusted points, based on points available, and meet minimum component standards in order to receive a Satisfactory rating.” In addition, paragraph 5.1. states, “General. Exemptions are designed to categorize Airmen as unable or unavailable to train or assess for a limited time period. Exemptions, for medical reasons, are entered into AFFMS II using the current AF Form 469 following FA completion.”

Recommend denying the relief sought by the applicant due to insufficient evidence. Applicant did not provide his FA history with medical profiles to determine if his FA failures were during profile dates.

A complete copy of the AFPC/DP2SSM evaluation is at Exhibit C.

The AFPC Enlisted Promotions Office recommends denial indicating there is no evidence of an error or an injustice. In accordance with (IAW) AFI 36-2502, *Airman Promotion/Demotion Programs*, 31 Dec 09, paragraph 6.3.5., airmen may be demoted for failing to maintain or demonstrate the ability and willingness to attain physical standards. IAW AFI 36-2905, Chapter 10, paragraph 9.1.2., Unit Commanders (CCs) or equivalent may take adverse administrative action upon a member’s unsatisfactory fitness score on an official FA. Unit CCs exercise complete discretion in selecting responsive action(s). Commanders may use more than one action per failure.

The applicant was demoted from the rank of SrA to A1C, effective 3 Jun 13, for failure to keep fit (AFI 36-2502, para 6.3.5). Specifically, he failed three FAs between 11 Sep 12 and 5 Mar 13. The applicant concurred with the demotion action and chose not to submit an appeal. The case was reviewed by the 7th Bomb Wing Staff Judge Advocate and found to be legally sufficient. The applicant was honorably discharged in the rank of A1C. The applicant did not provide his FA history with medical profiles to establish his FA failures were during profile dates. The commander acted within his authority to demote the applicant, therefore, we recommend denial of the applicant’s request to remove the administrative demotion action.

A complete copy of the AFPC Enlisted Promotions Office’s evaluation is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATIONS:

Copies of the Air Force evaluations were forwarded to the applicant on 13 Jan 17 for review and comment within 30 days (Exhibit E). As of this date, no response has been received by this office.

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 an error or injustice. We took notice of the applicant’s complete submission in judging the merits of the case; 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 the applicant has not been the victim of an error of injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the requested relief.

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-2016-00491 in Executive Session on 20 Apr 17 under the provisions of AFI 36-2603:

Panel Chair

Member

Member

The following documentary evidence was considered:

Exhibit A.  DD Form 149, dated 2 May 16, w/atchs.

Exhibit B.  Applicant's Master Personnel Records.

Exhibit C.  Memorandum, AFPC/DP2SSM, dated 17 Jul 16.

Exhibit D.  Memorandum, AFPC Enlisted Promotions Office, dated 9 Nov 16.

Exhibit E.  Letter, SAF/MRBR, dated 13 Jan 17.

Pursuant to paragraph 1 of AFI 36-2603 (Title 32 Code of Federal Regulations, Part 865.1), it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.