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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02174

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His rank be changed from airman first class (E-3) to senior airman (E-4).

APPLICANT'S CONTENTIONS

He should have been promoted to E-4 because he completed the time-in-service and time-in-grade requirements. A promotion was hard to obtain at that time due to Hurricane Katrina. An airman he was enlisted with received his promotion to E-4, but he did not.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

On 6 Jun 03, according to AFPC/DPMSPP Enlisted Promotions, the applicant was promoted to E- 3.

On 5 Feb 06, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was honorably discharged from the Air Force in the grade of E-3.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

AFPC/DPMSPP (Enlisted Promotions) recommends denying the application. On 16 Feb 04, the applicant was detained by security at a casino for using another person's driver's license to play blackjack. The gambling age was 21 and the applicant was only 20 years old at the time. Following the incident, the applicant received a referral enlisted performance report (EPR) for the reporting period ending on 6 Oct 04. The applicant's promotion eligibility status code was updated to R (having a referral EPR). In accordance with (IAW) AFI 36-2502, *Enlisted Promotions and Demotions*, Table 1.2 rule 22, Airmen or Guardians will not receive supplemental promotion consideration for any cycle for which they were ineligible under this rule. If a referral EPR is received, Airmen or Guardians exceeding time-in-grade or time-in-service requirements for promotion to E-2 through E-4 may be promoted the day the ineligibility condition no longer exists. Paragraph 4.2.2.3. indicates reinstatement

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is not authorized. Promotion eligibility status code “R” automatically expires one day prior to the promotion eligibility cutoff date/static closeout date unless removed early by the squadron commander once 120 days have elapsed and if no other promotion eligibility status code applies, thus making the applicant ineligible for promotion. According to AFI 36-2502, paragraph 2.2.1, *Senior Airman Promotions*, the applicant was eligible to pin on E-4 on 6 Feb 05 when recommended by the promotion authority in writing and having completed 36 months time-in-service and 20 months time-in-grade or 28 months time-in-grade whichever occurs first. Due to the applicant not providing sufficient documentation of receiving the commander’s recommendation for promotion in writing and being issued a referral EPR, the applicant is ineligible for promotion.

The complete advisory opinion is at Exhibit C.

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 26 Feb 24 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPMSPP and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Specifically, there is insufficient evidence the applicant was recommended for promotion to E-4 by his commander. Therefore, the Board recommends against correcting the applicant’s records. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2023-02174 in Executive Session on 30 May 24:

Work-Product	, Panel Chair
Work-Product	, Panel Member
Work-Product	, Panel Member

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All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, dated 28 Jun 23.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFPC/DPMSPP, dated 26 Feb 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 26 Feb 24.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

1/15/2025

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Board Operations Manager, AFBCMR

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