

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2020-01660-2

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. The Board reconsider his request to have his Enlisted Performance Report (EPR) for the period 1 December 2015 thru 30 November 2016 be replaced with an AF Form 77, *Letter of Evaluation*, stating "Not rated for the period above. Evaluation removed by the order of the SecAF."
2. The Board reconsider his request for promotion reconsideration for the 17E7, 18E7, and 19E7 promotion cycles.

RESUME OF THE CASE

The applicant is a currently serving Air Force technical sergeant (E-6).

On 14 December 2020, the Board considered and denied his request that (1) his Enlisted Performance Report (EPR) for period of report 1 December 2015 thru 30 November 2016 be declared void and removed from his records and (2) he receive promotion reconsideration for the 17E7, 18E7, and 19E7 promotion cycles; finding the applicant had provided insufficient evidence of an error or injustice to justify relief.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit H.

On 3 August 2021, the applicant requested reconsideration of his request. He contends that in his original request he provided a memo of support signed by his rater for 2017, three investigations reports, as well as witness statements and supporting documentation. He provided signed statements from two of the three EPR signatories, which he believes will suffice for the preponderance of evidence and burden of proof. Additionally, the memorandum signed by the additional rater of the contested report specifically states "...pressure to ensure that the revised EPR would not set him up to be competitive for promotion soon." He goes on in section 5 to support an AF Form 77 be used to replace the contested report. Although not expressly stated, he believes this pressure came from the squadron and group commander level as his Article 138 action brought a high level of scrutiny on institutional shortcomings as it pertains to the treatment of people. The applicant then goes onto state that the contested EPR came at a critical

time in his career and that correction has the potential for tangible change and is in the interest of justice.

In support of his reconsideration request, the applicant submitted as new evidence a letter, dated 13 April 21, from his former flight commander, who was also his additional rater at the time the contested evaluation was written.

The applicant's complete submission is at Exhibit I.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board remains unconvinced the evidence presented demonstrates an error or injustice. The Board recognizes the new evidence provided by the applicant in the form of a memorandum dated 13 Apr 21 from his additional rater, who now supports the removal of the EPR in its entirety and indicates that the passage of time has given him a different perspective. However, in accordance with, DAFI 36-2406, *Officer and Enlisted Evaluation System*, paragraph A2.5.3. "Retrospective views of facts and circumstances, months or even years after the evaluation was written, will usually not overcome the board's presumption that the initial assessment remains valid." Furthermore, paragraph 10.2.1.3. states that "evaluations that have become a matter of record are presumed to be accurate and objective." As such, the Board finds that a letter being submitted by his flight commander nearly five years after the close out of the evaluation is not sufficient evidence to support removal of the EPR, especially after the EPR has already been substituted with a rewritten EPR to change the ratings and the content based on the outcome of the Applicant's Article 138, *Request for Redress*. In this regard, the Board continues to note that while the applicant's Article 138 Redress Outcome led to the removal of a Letter of Reprimand (LOR) and the substitute EPR, the applicant still received a Letter of Counseling (LOC) from his squadron commander for the events that occurred during the rating period. Based on this LOC and the lack of documentation from the applicant's former squadron commander supporting removal of the LOC or the EPR, the Board finds the preponderance of the evidence is not sufficient to overturn the Board's previous decision. Moreover, the Board continues to concur with AFPC/DP2SSP, that removing the applicant's EPR would not alter his points for promotion consideration and would subsequently not affect his current standing in the Weighted Airman Promotion System (WAPS) for the 17E7, 18E7, and 19E7 promotion cycles. As such, no new evidence has been provided by the applicant to support reconsideration for any of these cycles. Therefore, the Board continues to recommend against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2020-01660-2 in Executive Session on 17 May 2022:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit H: Record of Proceedings, w/ Exhibits A-G, dated 30 December 2020.
Exhibit I: Application, DD Form 149, w/atchs, dated 3 August 2021.
Exhibit J: Documentary evidence, including relevant excerpts from official records.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

X

Board Operations Manager, AFBCMR