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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-00276

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His debt from his Air Force Reserve Officer Training Corps (AFROTC) scholarship be dismissed.

APPLICANT'S CONTENTIONS

He was improperly denied waiver consideration for his Air Force Officer Qualifying Test (AFOQT) failures and was disenrolled from the program. He was a Superior Performance Award recipient and should have been granted a waiver under paragraph 4.10.8 of AFROTCI 36-2011, *Cadet Operations*. He was never informed or counseled on this option. Disenrolled students are not automatically subjected to recoupment and there is no record any consideration was made of whether or not to initiate recoupment. It would be unjust to force repayment by a cadet who could not commission due to no fault of his or her own. The process and the required consideration are meant to determine if the disenrollment was due to the cadet's own fault or an attempt to shirk their duty.

On 3 Jun 21, the Board sent a letter to the applicant informing him he had not exhausted all avenues of relief advising him to request removal of his debt through the AFROTC office and administratively closed his case (Exhibit C). The applicant submitted another application, dated 2 Dec 22, through counsel, stating he filed an appeal with the Air Force Air University; however, his appeal was declined. Per AFROTCI 36-2011, he was unjustly denied a waiver provision for his AFOQT failures. To support his request, he submitted a letter from his AFROTC commander supporting his request for relief stating he was not aware a waiver was an option. The legal review prior to finalization of his commander's decision should have recognized this and advised his commander accordingly. He was a young college student unfamiliar with the ins and outs of Air Force regulations and who suddenly found himself grappling with fears of an uncertain future and was denied a reasonable opportunity to present evidence supporting an AFOQT waiver. It appears the professionals who should have been familiar with the rules governing the process and should have been able to provide proper advice about options suitable for this case did not take the necessary time to adequately review the standards as they applied to his case. This failure not only resulted in his disenrollment from the program, but it also resulted in his debt which has taken an immense emotional and professional toll on him.

AFBCMR Docket Number BC-2021-00276

Work-Product

Work-Product

The applicant's complete submissions are at Exhibits A.

STATEMENT OF FACTS

The applicant is a former Air Force Reserve Officers Training Corps (AFROTC) cadet.

On 26 Jan 12, AF Form 1056, *Air Force Reserve Officer Training Corps (AFROTC) Contract*, indicates the applicant signed a contract for a Type 1 scholarship for a 3-year period in the field of nursing. In Part I, Section 2, *Agreement of Cadet*, it is noted he would remain a fulltime student pursuing the degree indicated, pass the AFOQT, and complete the AFROTC courses.

On 25 Feb 14, the Disenrollment Report of Investigation, provided by the applicant, indicates he failed the AFOQT twice and did not make an oral statement expressing his desire to continue in the AFROTC program and his assurance if given another opportunity to take the AFOQT, he would pass. It is noted he was tasked with passing a college-level English course and the Scholastic Aptitude Test (SAT) preparatory course to improve his verbal skills; but he failed to provide proof of course completion; however, he did provide a screenshot of the online completed SAT tests. It is further noted, his commander indicated a disenrollment investigation would proceed for possessing undesirable character traits indicating inability to conform to and perform in the manner expected of an AFROTC officer candidate; failure to maintain military retention standards by twice failing the AFOQT; displaying ineptitude to include failure to attain the level of maturity and/or judgement expected of an officer candidate; and displaying unacceptable adjustment to the military environment.

Dated 31 Mar 14, AFROTC Form 22, *Cadet Personnel Action Request*, indicates the applicant was recommended to be disenrolled for failing the AFOQT twice as well as displaying undesirable character traits as an officer trainee. It is further noted the applicant's pattern of undesirable character traits became evident and were displayed periodically in the fall semester 2013 and possibly before that. Attempts to course correct, both formally and informally, did not appear to resonate as there was no observable change in his behavior or attitude.

Dated 11 Apr 14, DD Form 785, *Record of Disenrollment from Officer Candidate – Type Training*, indicates the applicant was disenrolled, effective 16 Jun 14, for failure to maintain military retention standards when he failed to achieve the minimum score on the AFOQT twice. In Section IV, *Evaluation to be Considered in the Future for Determining Acceptability for Other Officer Training*, it is noted he should not be considered without weighing the "Needs of the Service" against the reasons for this disenrollment. It is further noted in the remarks section he had a grade point average of 2.80.

Dated 12 Sep 14, Reserve Order Work-Product indicates the applicant was honorably discharged from the Air Force Reserve (AFR), effective 16 Jun 14.

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

AIR FORCE EVALUATION

AFROTC/CC recommends denying the applicant's request for recoupment termination finding no evidence of an error or injustice. The applicant was a cadet and was awarded a scholarship in Dec 11 and contracted with the United States Air Force. His disenrollment was for the failure to pass the verbal portion of the AFOQT. Five years after the 1-year disenrollment appeal window closed, he submitted an application to the AFBCMR requesting termination of scholarship recoupment. This specific request for redress was made after the 3-year window for an application to this Board.

Per AFROTCI 36-2011, dated 24 Aug 12, paragraph 4.10.8, in the event an applicant does not meet minimum qualifying scores upon a first retest, the Detachment Commander may request a verbal or quantitative waiver via the AFROTC Form 22. For this request, the applicant submitted a memorandum from the Detachment Commander dated 19 Nov 22. In the memorandum, the commander asserted the applicant would have been an ideal candidate for a waiver, but he could not recall whether the applicant was considered for one. However, the Form 22, submitted by the applicant's commander on 31 Mar 14, stated the cadet's unprofessional behavior of missing meetings to routinely demonstrating belligerent, combative, and uncooperative behavior to other cadre members is unacceptable. These undesirable character traits are not conducive to what the Air Force is looking for in its officer trainees and exacerbated the recommendation the applicant be disenrolled from AFROTC and not be called to extended active duty (EAD). The Detachment Commander recommended the applicant for disenrollment and not for an AFOQT waiver consideration. Additionally, in the AFROTC Form 22, the Detachment Commander cites AFROTCI 36-2011 on two occasions, displaying his familiarity with the regulation and its requirements. Therefore, the Detachment Commander's recommendation for disenrollment versus an AFOQT waiver was informed by the instruction. The applicant does not qualify for termination of scholarship recoupment because he has neither commissioned nor served on active duty, as is required by the AFROTCI 36-2011. He has provided no evidence of prior service and has stated he is not currently on active duty.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 22 Feb 24 for comment (Exhibit E), and the applicant replied on 14 Mar 24. Through counsel, the applicant requested the documents referenced in the advisory opinion from the AFROTC/CC be sent to him for further input. These documents were obtained and emailed to the applicant and counsel on 20 Mar 24 with a 30-day suspense to provide a response (Exhibit D with attachments and Exhibit G). Additionally, he contends the letter written by lieutenant colonel W----- in support of his appeal should not be overshadowed by the advisory opinion. The advisory opinion seems to ignore and makes guesses as to what lieutenant colonel W----- knew or did not know regarding his disenrollment even though lieutenant colonel W----- states he was an ideal candidate for a waiver and supports his request for debt relief. He has been trying to get this issue resolved to no avail. He was informed the documentation of his time as a cadet was destroyed. He was a superior

performer and therefore, did not have to pass the AFOQT as he could have been given a waiver which is supported by his former commander; therefore, his debt should be dismissed.

On 18 Apr 24, through counsel, the applicant contends he cannot remember what was going on at the time of this assessment as it was a stressful time and again stresses there is no evidence a waiver was considered to which he was eligible for. He qualified for consideration of a waiver because he had earned a rating of "superior performer" on his Field Training Performance Report. Because of this, he did not have to take the retest or spend money on study guides as recommended.

The applicant's complete response is at Exhibits E and H.

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 AFROTC/CC and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant failed the AFOQT twice and was given ample opportunity to improve his scores. The Board notes the applicant's former commander at the time wrote a letter to support his application for relief; however, the Board finds his original removal from the AFROTC program was justified and was due to the applicant's unprofessional behavior in addition to not meeting standards. According to AFROTCI 36-2011, the Detachment Commander may request a waiver; however, this is not automatic and is at the discretion of the commander. The Board took note of the certificate the applicant submitted recognizing his superior performance in 2012; however, this does not automatically negate the need for passing the AFOQT or automatic approval of a waiver. Consideration of waiver requests for AFOQT scores is dependent on a GPA of at least 3.5 or finish field training as a distinguished graduate or superior performer. While the Board notes, the applicant was a superior performer in mid-2012; however, he had a GPA of 2.80 and twice failed his AFOQT. Therefore, the Board finds his commander gave him ample opportunities to correct his verbal deficiency noting he was being disenrolled for not meeting standards and displaying a pattern of undesirable character traits. In a letter in response to the applicant's congressional inquiry, it states HQ AFROTC will consider terminating the recoupment debt of disenrolled cadets who complete at least two years of continuous enlisted active-duty service or who receive an active-duty commission. The applicant had the opportunity to serve in the military and have his debt waived once this requirement was fulfilled. Therefore, the Board recommends against correcting the applicant's record. 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, U.S.C., and DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.

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 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-2021-00276 in Executive Session on 23 Apr 24:

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Panel Chair

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Panel Member

Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 24 Sep 20 and 2 Dec 22.

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

Exhibit C: Failure to Exhaust Notice, dated 3 Jun 21.

Exhibit D: Advisory Opinion, AFROTC/CC, w/atchs, dated 15 Feb 24.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 22 Feb 24.

Exhibit F: Applicant's Response, w/atchs, dated 14 Mar 24.

Exhibit G: Notification of Attachments, SAF/MRBC to Applicant, dated 20 Mar 24.

Exhibit H: Applicant's Response, w/atchs, dated 18 Apr 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.

7/4/2024

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Board Operations Manager, AFBCMR

Signed by:

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