

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01528

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His promotion sequence number (PSN) for the rank of master sergeant (E-7) be reinstated and he be promoted with a date of rank (DOR) and effective date of 1 Jun 19.
2. His Air Force Commendation Medal, with second oak leaf cluster (AFCM, w/2 OLC) be upgraded to a Meritorious Service Medal (MSM).
3. His enlisted performance reports (EPR) for 2019, 2020 and 2021 be reaccomplished on AF Form 911, *Enlisted Performance Report (MSgt Thru SMSgt)*.

APPLICANT'S CONTENTIONS

His squadron commander (SQ/CC) violated his due process rights and committed an unjust act by utilizing excessive punishment. His SQ/CC went to great lengths to prevent him from being able to respond and denied his request at least seven times to discuss what he was accused of. He received no paperwork or explanation as to the basis for the denial of his promotion. It was more than two and a half years before he finally received a copy of the commander directed investigation (CDI). He has received no counseling or correction since 2008. His EPRs show he was rated as "best of the best" or "exceptional," he has earned numerous awards to include the Lance P. Sijan Award for the wing (the Air Force's most prestigious leadership award) just a year prior.

The CDI was an attack on his character. Most of the airmen questioned in the CDI were in the bottom 20 percent of performers and were looking for someone to blame for their unhappiness. The investigating officer (IO) only interviewed 19 of the 73 airmen in the section. Not one member from his prior leadership chain who endorsed his EPRs were asked for input. The CDI cherry-picked members to be interviewed. If his SQ/CC had an issue with the way he conducted business there were numerous tools for him to correct his behavior. Although, counseling, admonishments and reprimands should be used as part of a graduated pattern of discipline, his commander chose to use AFI 36-2502, *Enlisted Promotions/Demotions Programs*, and nonrecommend him for promotion. This canceled his promotion and caused ramifications towards his ability to be promoted moving forward.

The IO selected by his SQ/CC to conduct the CDI made two recommendations. First, that he be issued a reprimand for the substantiated allegation; and second, he be removed from any significant supervisory position until rehabilitated. However, his commander redlined his promotion without giving him a chance to respond to the allegations.

His group commander (GP/CC) dug into the matter and upon receiving the CDI, he changed policy within the group to not allow SQ/CCs to demote or withhold promotion for senior noncommissioned officers (SNCO) without the GP/CC approval. This is good for everyone else but it did not undo the devastation to his career. He cannot get promoted and will hit high year

tenure (HYT) in 2023. The applicant provides letters of support on his behalf and a personal statement addressing the CDI allegations.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a technical sergeant (E-6) in the Air Force.

SAF/IG does not have a record of the CDI on file in the Automated Complaints Tracking System (ACTS). However, the applicant provides the redacted ROI, which shows the applicant was investigated for the following two allegations.

Allegation 1: Between 1 Jun 18 to 31 Mar 19, the applicant was derelict in the performance of his duties in that he failed to maintain professional relationships with members of the squadron. **(NOT SUBSTANTIATED)**.

Allegation 2: Between 1 Jun 18 and 31 Mar 19, the applicant was derelict in the performance of his duties in that he failed to treat airmen within the squadron with dignity, fairness and respect. **(SUBSTANTIATED)**. It was alleged the applicant routinely called airmen names like "stupid." The ROI includes specific instances. It was also alleged the applicant from Apr to Jul 18 may have abused his authority by placing [redacted] on extended shifts for making a snarky comment to another airman. The practice of placing airmen on extended shifts was pushed by flight leadership, namely the flight chief, and was a common practice for teaching airmen lessons. Along with the mentioned instances, witnesses testified the applicant had a significant, negative affect on organizational climate and morale. He was described as having an "aggressive personality" and was "not very nice." The applicant had made recent attempts to improve his interactions. However, the recent attempts at improvement did not negate his past sustained, negative conduct as a leader and supervisor.

The IO also indicated that while gathering testimonies, [redacted] and [redacted] were also accused of engaging in inappropriate conduct and may require further investigation at the commander's discretion.

The applicant was awarded the AFCM w/ 2 OLC for meritorious service as the wing avionics manager from 23 Feb 18 to 31 Mar 21.

In a letter dated 25 May 22, his GP/CC at the time requested the Board reinstate the applicant's PSN. The GP/CC states the applicant's SQ/CC was a new and first time SQ/CC and was also new to the maintenance career field. He was not made aware of the CDI until after it was complete and the SQ/CC made his decision. The CDI was within the SQ/CC's scope and was the proper course of action given the initial facts. However, he was surprised at the action and told the SQ/CC his decision was extreme. As the GP/CC, he completely disagreed with the redlining of his promotion. The CDI substantiated claims but they did not rise to the level for the applicant to lose his promotion. The SQ/CC received bad advice and failed to seek counsel from him or his fellow commanders who had more time and experience. He requests the Board right the wrong.

On 10 Nov 22, the AFBCMR administratively closed the applicant's case for failure to exhaust administrative remedies per AFPC Enlisted Promotions for the applicant to submit an exception to policy (ETP) request.

In a memorandum dated 22 Dec 22, the applicant's SQ/CC, GP/CC, and wing commander (WG/CC) requested the Air Force Personnel Center (AFPC) reinstate the applicant's promotion. The applicant acknowledged signing a document and being advised verbally of the

nonrecommendation; however, there was no official documentation in the applicant's records, even though updates were made in the military personnel data system (MilPDS). AFI 36-2502, paragraph 4.2., states written notification is required and that the notification be filed in the automated records management system (ARMS). The actions of the SQ/CC were not updated in accordance with established guidance. On 10 Jan 23, the WG/CC's ETP request for reinstatement of the applicant's promotion to master sergeant was updated in the case management system (CMS). On 13 Feb 23, AFPC disapproved the request stating the request should be submitted to the AFBCMR per DAFI 36-2502.

The applicant's ARMS record does not include any promotion nonrecommendation letter. The applicant's HYT is Sep 23.

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

AIR FORCE EVALUATION

AFPC/DP2 (Enlisted Promotions) recommends denial. The applicant acknowledges he signed a document and being advised verbally of the nonrecommendation and appropriate updates were made in MilPDS as required per AFI 36-2502. Based on a MilPDS audit of the applicant's records, appropriate updates were made prior to the promotion increment of 1 Jun 19. The military personnel flights (MPF) are not authorized to make promotion updates without appropriate source documents. AFPC/DP3SP received email confirmation from the SQ/CC and senior enlisted leader at the time of the nonrecommendation that procedures were followed and the applicant was verbally notified in person and signed the nonrecommendation letter.

In accordance with AFI 36-2502, the notification memorandum must include reasons, dates, occurrences and duration of the action. If the applicant is verbally notified and written notification is followed up after the effective date of promotion, a statement confirming the verbal notification is to be included. Upon obtaining the written acknowledgement, the notification is forwarded to the military personnel section (MPS) for file in the airman's ARMS records and update in the MilPDS.

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 23 Feb 23 for comment (Exhibit D), and the applicant replied on 27 Mar 23. In Nov 22, AFPC told the AFBCMR that there was no history of his stripe ever being redlined. They instructed his leadership to submit an ETP request that was signed by his SQ/CC, GP/CC and WG/CC. Then on 7 Feb 23, AFPC denied the very ETP they advised him to submit to stop the AFBCMR process. He is running out of time as his HYT is 18 Sep 23. Commanders and chiefs at every level have tried to undo this for him but have run into brick walls at every turn. The AFBCMR is his last hope. The applicant's complete response is at Exhibit E.

ADDITIONAL AIR FORCE EVALUATION

AFPC/DP2 in an additional advisory recommends denial. In accordance with AFI 36-2502, paragraph 4.2.1.3, the written notification is forwarded to the MPS for file in the Airman's ARMS record and updates in MilPDS. There was no requirement for the documentation to be maintained in the ARMS record. AFPC/DP3SP received confirmation from the unit commander and senior enlisted leader at the time of the non-recommendation that procedures were followed and the member was verbally notified and signed the nonrecommendation letter at the time. Per AFI 33-

332, *Air Force Records Management and Information Governance*, Base Level records have a two year disposition date, the documents would have been destroyed from base level records in May 21.

The complete advisory opinion is at Exhibit F.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the additional advisory opinion to the applicant on 30 Mar 23 for comment (Exhibit G) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant did not exhaust all available non-judicial relief before applying to the Board for upgrade of his AFCM w/2 OLC and correction of his 2019 and subsequent EPRs.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. While the Board notes the recommendation of AFPC/DP2 against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. While deference is normally given to the commander who initiates an administrative action, the Board finds the letter of support provided by his GP/CC dated 25 May 22 and the ETP request for reinstatement of his rank of master sergeant endorsed by his current SQ/CC, GP/CC and WG/CC dated 22 Dec 22 persuasive to recommend the applicant's rank of master sergeant be reinstated. Moreover, the Board notes the applicant's ARMS record does not contain any evidence of the nonrecommendation for promotion as required by AFI 36-2502. While AFPC/DP2 cites AFI 33-332 did not require the nonrecommendation for promotion memorandum to be filed in the applicant's records, the reference cited appears to apply to the disposition of base level records and not the requirement for the applicant's ARMS record. However, with respect to the request his AFCM w/2 OLC be upgraded to an MSM and his EPRs for 2019 and subsequent years be reaccomplished on the AF Form 911, the Board finds the applicant has not exhausted the available administrative remedies. In particular, the applicant has not presented evidence he requested his chain of command reconsider his award and upon correction of his rank, he may request the ERAB correct his EPRs. Therefore, the Board recommends correcting the applicant's records as indicated below.
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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show he was promoted to the rank of master sergeant (E-7), with date of rank (DOR) and effective date of 1 Jun 19.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-01528 in Executive Session on 20 Apr 23 and 1 May 23:

, Panel Chair
, Panel Member

, Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 26 May 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2, dated 15 Feb 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Feb 23.
- Exhibit E: Applicant's Response, w/atchs, dated 27 Mar 23.
- Exhibit F: Advisory Opinion, AFPC/DP2, dated 30 Mar 23.
- Exhibit G: Notification of Advisory, SAF/MRBC to Applicant, dated 30 Mar 23.

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.