

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02684

XXXXXXXXXX

COUNSEL: XXXXXX

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His Letter of Reprimand (LOR), issued 12 Sep 22, be removed from his record, to include his Personnel Information File (PIF).

APPLICANT'S CONTENTIONS

He was issued a LOR based on a quoted statement that he never said, and it should be withdrawn as the only evidence is hearsay and not true as it contains false quotes and false accusations. Additionally, the LOR was presented without evidence to prove his guilt as required by DAFI 36-2907, *Adverse Administrative Actions*, as his Officer in Charge (OIC) informed him that the requested evidence would not be provided. As a result, as stated in his response to the LOR from the Area Defense Counsel, he was deprived the full benefit of legal counsel as he was unable to adequately respond due to the lack of evidence.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force staff sergeant (E-5).

On 12 Sep 22, the applicant received an LOR from his OIC as a result of an investigation in which he failed to perform the correct follow-on maintenance as prescribed in 1E-3A-2-71-1 paragraph 9.15 and for violation of AFI 21-101, paragraph 1.6.2. Specifically, the investigation disclosed that on or about 8 Aug 22 he was observed by an Inspector General (IG) inspector during an installation of a starter pressure switch in which he performed an operational check not prescribed by the technical order. When asked why he was deviating from the technical order and not performing the proper follow-on maintenance he stated, "this is the way I do the operational check because my system knowledge is better than any tech data."

On 12 Sep 22, the applicant acknowledged receipt and indicated that he would be submitting documents in response to the LOR.

On 15 Sep 22, his OIC, stating that she has considered the applicant's response, decided to sustain the LOR.

On 19 Sep 22, the applicant acknowledged he had been informed of his OIC's final decision.

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

AIR FORCE EVALUATION

AFPC/DPMSSM recommends denying the applicant's request to remove the LOR from his records. A review of the LOR and document provided by the applicant, he was provided three (3) days from the date he received the LOR to provide a response. He provided his response in the form of an Air Defense Counsel memorandum that stated, "insufficient evidence exists at this time to find the applicant guilty of the offenses alleged in the LOR dated 12 Sep 22". The LOR is currently not maintained in the applicant's personnel record. Either it was never filed, or it has already been removed.

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant's OIC issued a LOR based on the preponderance of the evidence. In accordance (IAW) DAFI 36-2907, the standard of proof for adverse actions is the "preponderance of the evidence", which exists when it is more likely than not the events have occurred as alleged. Preponderance of the evidence is not determined by the number of witnesses or exhibits, but by all the evidence and evaluating factors such as the credibility of witnesses.

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 16 Nov 22 for comment (Exhibit D), but has received no response.

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 concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP2SSM and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the applicant contends his LOR should be expunged, the Board notes that he consulted with counsel, provided a response, and the issuing authority considered the applicant's response and based upon the preponderance of evidence decided to sustain the LOR. As such, the Board finds the LOR was within the OIC's authority, the applicant was afforded all of his due process rights and the evidence provided does not warrant the removal of the LOR or show that it was unjust or inaccurate as written. Therefore, the Board recommends against correcting the applicant's records.

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-2022-02684 in Executive Session on 10 Jan 23:

, Panel Chair
, 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 3 Oct 22.

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

Exhibit C: Advisory Opinion, AFPC/DPMSSM, dated 31 Oct 22.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Nov 22.

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