



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2023-00915

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. Reconsideration for promotion to Chief Master Sergeant (CMSgt) (E-9). **(Failure to Exhaust – Enlisted Promotions)**
2. Adjust her High Year of Tenure (HYT), to allow for consideration to E-9.
3. Revisit actions taken against her during a misguided and flawed Command Directed Investigation (CDI).
4. Reimbursement of legal fees she shouldered to defend her integrity and honor. **(Not within the scope of the Board's Authority)**

APPLICANT'S CONTENTIONS

Her leadership's failure to recognize her efforts through appropriate and timely award recognition resulted in her meeting the CMSgt's board with an incomplete record rendering her non-competitive for promotion due to the lack of individual awards. Further, she believes that the reasons for which she was denied a decoration were the same reasons she was not considered for stratification at the wing level as evidenced by the comments from the senior enlisted leader (SEL) at Colorado Springs who stated that her "EPR from Korea was not good...because it did not close out at the wing level. However, he was impressed with my overall records because of the breadth and depth of my experience and emphasized that more individual awards would have placed me in the number one spot instead of his number two."

In Jan 21, she filed an Article 138, *Request for Redress*, complaint regarding her squadron leadership's (Korea) flawed decision not to grant her an award. In her Article 138 response, the Operations Group Commander overturned this decision and stated, "A decoration was merited," and she was subsequently awarded a Meritorious Service Medal (MSM). However, her records met the Dec 20 CMSgt promotion board without the MSM which negated a fair assessment of her potential to serve at the next higher grade. She was again denied a fair assessment when her MSM from her squadron at Shriever AFB was not loaded into her Personnel Records Display Application (PRDA) record until Jan 23, approximately two and one-half months after the Oct 22 CMSgt promotion board had met and more than seven months after she moved to her new assignment at Fort Meade.

Additionally, she was the subject of a severely flawed Command Directed Investigation (CDI) in which false claims were brought against her by two contractors resulting in her being removed

AFBCMR Docket Number BC-2023-00915

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

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from the squadron; erroneously receiving a Letter of Reprimand (LOR), which based on her response was downgraded to a Letter of Admonition (LOA); and receiving a career ending enlisted performance report (EPR).

Finally, she contends that she is also a reprisal/whistleblower victim as her adverse actions are a direct result of her raising concerns to leadership regarding their decisions/actions with an airman first class who had failed to return his personal weapon to the armory.

She is extremely grateful for her opportunity to have served honorably and to have been a consistent contributor to the Air Force's mission and its growth to including building up the US Space Force. She is extremely proud of the impact that she has made on the many Airmen placed under her supervision and those she mentored, or came to know. She gave everything that the Air Force asked of her, and she respectfully asks the Board, that upon their review of the facts, grant her requests and restore her faith, honor, and gratitude towards the service she proudly served.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force senior master sergeant (E-8).

On 22 Oct 20, according to AF Form 911, *Enlisted Performance Report (MSgt thru SMSgt)*, for the rating period of 1 Aug 19 – 31 Jul 20, Section V, *Overall Performance Assessment*, reflects she received the rating of "Exceeded most, if not all expectations." On 22 Oct 20, the squadron commander concurred with the rater's assessment and signed. Section XII, *Rater's Acknowledgement*, reflects "Ratee refused to sign."

On 15 Jan 21, according to the memorandum, *Article 138 Complaint*, dated 15 Jan 21, provided by the applicant, the applicant set forth her rationale on why it was unjust for her to be denied an MSM and requested to be awarded an MSM.

On 7 Feb 21, according to the memorandum, *Article 138 Complaint Response*, dated 9 Feb 21, provided by the applicant, the Operations Group Commander determined that a decoration was warranted and granted her request to be awarded the MSM.

On 7 Feb 21, according to Special Order **Work-Product** dated 29 Jan 21, the applicant was awarded the Meritorious Service Medal for outstanding service for the period of 1 Jul 19 to 23 Jul 20.

On 19 Jan 21, the Cyberspace Squadron Civilian Leader (CYS/CL) appointed an Investigating Officer (IO) to conduct a Command Directed Investigation (CDI) into allegations that the applicant engaged in harassment and made unauthorized commitment of behalf of the Air Force, as detailed below:

1. Did <applicant>, between on or about 16 Oct 20 and on or about 12 Dec 20, harass <name redacted> by asking him questions about his sexuality, commenting about his sexuality, or adopting mannerism stereotypical of a homosexual male, in violation of AFI 36-2710, paras. 2.1 and 2.4? Finding: **SUBSTANTIATED**.

2. Did <applicant>, on or about 3 December 2020, fail to fulfill her responsibilities as a SNCO by treating members of the 61 CYS/CSS disrespectfully, in violation of AFH 36-2618, para. 4.6? Finding: **SUBSTANTIATED**.

3. Did <applicant>, between on or about 16 Oct 20 and on or about 12 Dec 20, make an unauthorized commitment on behalf of the Air Force by directing contractors to perform services outside the terms of their contract, in violation of 48 CFR § 1.602-3? Finding: **NOT SUBSTANTIATED**.

4. Did <applicant>, between on or about 1 Nov 20 and on or about 15 Dec 20, fail to fulfill her responsibilities as a SNCO by making disparaging comments about the President of the United States of America in the work center that she supervised, in violation of AFH 36-2618, para. 4.6? Finding: **NOT SUBSTANTIATED**.

On 5 Apr 21, based on the *CDI Report of Investigation*, dated 1 Mar 21, the CYS/CL issued the applicant a LOR when she engaged in harassing behavior towards an individual under her supervision by inquiring as to his sexuality, commenting on his sexual orientation, and adopting mannerisms intended to mock the same; and when she treated an individual she supervised in a condescending and unprofessional manner by engaging in needless criticism of the individual in the Commander's Support Staff in front of others, and speaking to them in a condescending tone, and by either refusing or neglecting to properly train them.

On 16 Apr 21, the applicant through counsel submitted a response to the LOR. The CYS/CL considered her response and decided to reduce the action to a LOA.

On 27 Apr 21, the applicant acknowledged the CYS/CL's final decision.

On 24 Sep 21, according to AF Form 911, for the rating period of 1 Aug 20 -31 Jul 21, the applicant was given the following ratings from the GS-15 Cyberspace Squadron Civilian Leader: Section III, *Mission Accomplishment*, "Met some but not all expectations"; Section IV, *Whole Airman Concept*, "Met all expectations"; and Section V, *Overall Performance Assessment*, "Met some but not all expectations." On 3 Oct 21, the Commander, Space Delta 6, concurred with rater's assessment and signed. Section XII, reflects "Ratee refused to sign."

On 19 Jan 23, according to Special Order **Work-Product** dated 17 Oct 22, she was awarded the Meritorious Service Medal for outstanding service for the period of 24 Jul 20 to 31 May 22.

On 18 Jul 23, according to a pull from the Retrieval Applications Website (RAW) record, reflects Entry Active Duty (EAD) date 27 Aug 97 and RET SEP EFF DATE PROJ of 31 Aug 23.

Effective 31 Aug 23, according to Special Order No. **Work-Product** the applicant will be relieved from active duty and retired effective 1 Sep 23 in the grade of senior master sergeant (SMS) and was credited with 26 years and 4 days of active service.

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

APPLICABLE AUTHORITY/GUIDANCE

Air Force Instruction (AFI) 36-3203, Service Retirements, 29 Jan 21 (Corrective Actions Applied on 23 Feb 21), paragraph 3.10. Retirement is Conjunction with High Year Tenure (HYT) Date. Member must request voluntary retirements to be effective no later than the first day of the month following the HYT date. In accordance with 10 USC § 9314 10 USC § 9317, enlisted members must voluntarily request retirement. The HYT is set at the following service points: Senior Master Sergeant (E-8) at 26 years of service. **Exception:** Enlisted members who are approved for HYT extension for hardship or best interest of the AF reason(s) may serve until completion of the approved extension period.

Department of the Air Force Instruction (DAFI) 36-2502, *Enlisted Airmen Promotion and Demotion Programs*:

Paragraph 2.8. Supplemental Promotions for SSgt through CMSgt. Supplemental promotion consideration will not be granted if the error or omission appeared in the Airman's data verification record, PRDA, or senior NCO selection folder and no corrective or follow-up action was taken by the Airman prior to the promotion selection date for SSgt through TSgt or prior to the original promotion board for MSgt through CMSgt. (T-2). Fully documented supplemental consideration requests will be submitted in writing, to include the Airman's unit commander recommendation to the MPF. (T-2). MPFs will review and forward requests to AFPC/DP2SPP via the CMS. (T-2). Airmen may not request to be retained beyond an approved separation or retirement or high year of tenure to await the outcome of a supplemental promotion board. (T-2).

Paragraph 2.8.3.1. A supplemental request based on a missing decoration must have a closeout date on or before promotion eligibility cutoff date, and the recommendation date on the virtual personnel center (vPC) Summary Report or Décor 6 must be before the date AFPC makes the selections for promotion. (T-1).

2.8.3.2. Resubmit decorations (downgraded, lost, amended, etc.), to verify the original submission was placed into official channels prior to the selection date. 2.8.3.2.1. If the date of the special order is prior to the month promotion selections are made, the decoration will automatically update the promotion master file. (T-1). 2.8.3.2.2. If the date of the special order is the month selections are made or later, send the following documents to AFPC/DP2SPP: written request with unit commander's recommendation, citation, vPC coordination or Décor 6 (both pages), amendments (if any), and documentation of corrective/follow-up action taken by the Airman. Commander's recommendation on the vPC Summary Report or Décor 6 must be before the date AFPC announces selections for promotions. (T-1).

Table 1.4 states that for promotion to the grade of CMSgt (E-9) the promotion eligibility cutoff date is 31 Jul.

Paragraph 2.8.4. MSgt through CMSgt Supplemental Procedures. Except for supplemental consideration in the case of a static closeout date enlisted performance report not received in time for the initial promotion board, there are no automatic approvals for supplemental promotion consideration. Table 2.6 is used to determine whether a request for supplemental promotion consideration is authorized, and if so, whether mandatory scoring is required. Final decisions for approval of supplemental consideration requests rest with the AF Board for Correction of Military Records or AFPC/DP2SPP.

Table 2.6 states that if the item concerns adding a decoration consideration by supplemental promotion board is authorized and rescoring is Optional (see Note 4)...Note 4 states, Prior to

rescoring the record, the panel considers the type of error, the degree of impact on the promotion score, and the number of points needed for selection. Those records the panel considers but chooses not to rescore will be rendered nonselects.

AIR FORCE EVALUATION

AFPC/DPMSSM recommends denying the applicant's request. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant has not submitted a request for a HYT extension for consideration and they would not consider an HYT extension to allow servicemembers to meet promotion boards as this is not in the Best Interest of the Air Force nor is it an extreme hardship not common to contemporaries.

AFI 36-3203, paragraph 3.10.1.5, states that members may initiate and submit requests for HYT extensions, based on hardship or when in the best interest of the Air Force. Additionally, the *Retirements PSD Guide*, Vol 1, Section K, *High Year Tenure*, provides supplement information and outlines the HYT process. Retirement-eligible enlisted members must request a voluntary retirement that is effective no later than the first day of the month following their HYT date. Under unique circumstances, member may submit requests for extension of a HYT date. Requests to extend a HYT date are rare, and submissions should be made only when the member is experiencing and extreme *hardship* not common to contemporaries or when approval is shown to be in the *best interest of the service*. The maximum extension period is one year. Multiple extension requests or requests to extend for more than one year are not normally entertained. The member may submit requests for HYT extensions based on the *best interest of the service*. These requests should only be made when a uniquely qualified member is performing in a critical position essential to the success of a vital mission and a suitable replacement cannot be found.

The complete advisory opinion is at Exhibit C.

AF/JAJI recommends denying the applicant's request. After a careful review, they find no evidence of an error or injustice in the LOA. As some of the applicant's allegations are outside the scope of a military justice and discipline review, for the purpose of this legal advisory they analyzed only the alleged error or injustice in the LOA that resulted from the 19 Jan 21 CDI. On 1 Mar 21, the CDI Investigating Officer (IO) submitted a report of investigation (ROI), which found the following: Allegation 1 was substantiated except the part of the allegation that the applicant commented on <redacted> sexuality; Allegation 2 was substantiated; Allegation 3 was not substantiated; and Allegation 4 was not substantiated. On 5 April 2021, the CYS/CL issued a Letter of Reprimand (LOR) to the applicant and on 27 Apr 21, after considering her response, the CYS/CL reduced the LOR to an LOA.

According to Department of the Air Force Instruction (DAFI) 36-2907, *Adverse Administrative Actions*, 14 Oct 22, paragraph 2.3.4., an LOA is an "administrative censure for violations of standards which is more severe than a [Record of Individual Counseling] RIC and [Letter of Counseling] LOC." Further, in accordance with DAFI 36-2907, para. 2.2, The standard of proof for issuing an LOA is a "preponderance of the evidence."

While the applicant challenges the IO's factual findings and offers her own interpretation of the events, the IO's conclusion supports the language in the LOA regarding the applicant's unprofessional behavior. Thus, AF/JAJI concludes that the applicant has provided no evidence that her underlying misconduct does not meet the standards of an LOA and finds the LOA to be legally sufficient.

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 27 Jun 23 for comment (Exhibit E), 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.
3. After reviewing all Exhibits, to include the applicant's rebuttal, the Board concludes that the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendations of AF/JAJI and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant contends that she was a subject of a flawed CDI report which resulted in her receiving a LOR, later downgraded to a LOA, and receiving a "career ending" enlisted performance report; however, evidence shows that there were substantiated allegations of the applicant's unprofessional and inappropriate conduct validated through the CDI as depicted in the LOA. The Board notes the applicant consulted with counsel and provided a response, which upon consideration, the squadron civilian leader decided to reduce the action to a LOA. The Board finds that the LOA was neither arbitrary nor capricious and falls within the bounds of the civilian leader's authority. Furthermore, the applicant's circumstances are not unique compared to other similarly situated senior noncommissioned officers. The Board finds the applicant has not sustained her burden of proof that she was the victim of reprisal pursuant to 10 U.S.C. § 1034 for raising concerns to leadership regarding their decisions/actions with an airman first class who had failed to return his personal weapon to the armory.

Concerning the applicant's contention that the delayed awarding of the MSM also contributed to her non-selection for promotion to chief master sergeant and that the Board should adjust her High-Year of Tenure in order to allow consideration for promotion. In the interest of justice, the Board reviewed the applicant's 2019E9 – 2022E9 scores along with the cutoff scores and found that even if her record was rescored, the points awarded for the MSM would not have placed her over the eligibility cutoff score for promotion to chief master sergeant.

Pertaining to the applicant's request for reconsideration to promotion to Chief Master Sergeant, the Board finds the applicant has failed to exhaust all available remedies as she has not submitted a request for supplemental promotion to AFPC Enlisted Promotions, nor has she submitted a request for an HYT extension consideration, IAW AFI 36-3203, thus rendering any potential action by the Board premature. However, it must be noted that the Board concurs with AFPC/DPMSSM and finds that an HYT extension, in accordance with AFI 36-3203, should only be made when a member is experiencing an extreme hardship not common to contemporaries or when approval is in the best interest of the Air Force. Therefore, the Board recommends 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 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-2023-00915 in Executive Session on 31 Aug 23:

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

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 27 Mar 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSM, dated 19 Apr 23.
- Exhibit D: Advisory Opinion, AF/JAJI, dated 15 Jun 23
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Jun 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.

X

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9/4/2025

Board Operations Manager, AFBCMR

Signed by: Work-Product

AFBCMR Docket Number BC-2023-00915

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