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## UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00931

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COUNSEL: NONE

HEARING REQUESTED: YES

### APPLICANT'S REQUEST

His final Officer Performance Report (OPR) rendered for the period 4 May 21 through 27 May 22 be declared void and removed from his records.

### APPLICANT'S CONTENTIONS

The original closeout date of his OPR was 3 May 22 and he was relieved of command on 12 May 22. The Air Force Reserve Officer Training Corps Region Commander (AFROTC Region/CC) falsified an OPR extension request in order to close the OPR as a referral report. The OPR extension was granted under false pretenses allowing his commander to issue him a referral OPR outside of the closeout period. His commander failed to discuss, counsel, or correct a decision he made while executing his duties.

He also discovered HQ/AFROTC failed to include his rebuttal in accordance with (IAW) Department of the Air Force Instruction (DAFI) 36-2406, *Officer and Enlisted Evaluations Systems*, paragraph 1.4.4. and page 2 of AF Form 707, *Officer Performance Report*, when doing a final Personnel Records Display Application (PRDA) review prior to his retirement. He requested AFPC remove the OPR from his official record. An email from AFPC requesting further information was not received due to him being on terminal leave and he did not have access to his military account, and they did not send the request to his personal account. Due to the combination of the false extension request and failure to include his rebuttal, he requests the Board remove the referred OPR from an otherwise stellar 32-year record.

He is currently seeing a Department of Veterans Affairs (DVA) for post-traumatic stress disorder (PTSD) for his removal from command.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air Force lieutenant colonel (O-5).

On 9 May 22, according to AFPC/ DP3SP (Evaluation/Recognition Programs) and documentation provided by the applicant, the applicant's commander requested an extension to the applicant's OPR closeout date from 3 May 22 to 27 May 22 based on an operations visit conducted on 29-30 Apr 22 discovered several irregularities in the handling of cadet disciplinary actions. The extension would allow administrative actions to be completed prior to the OPR closeout. On 10 May 22, AFPC Evaluations approved the extension.

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On 12 May 22, the applicant was relieved of command for cause.

On 25 May 22, the applicant filed a complaint with the Holm Center Inspector General (IG) alleging the AFROTC Region/CC violated Title 10 USC 1034 Whistleblower Reprisal when the applicant was relieved from command, for cause. The reprisal allegation was determined, “no possible inference of causation” and closed. The IG referred other allegations of misconduct to the chain of command.

According to a letter from the AFROTC/CC, dated 19 Sep 22 and provided by the applicant, a commander’s review was conducted of the allegations of misconduct against the AFROTC Region/CC. The specific findings were:

- a) Allegation 1: Between on or about (o/a) 1 Aug 21 and o/a 12 May 22, failed to maintain a healthy command climate. NOT SUBSTANTIATED.
- b) Allegation 2: O/a 27 Sep 21, failed to manage resources appropriately when he encouraged a subordinate commander to waste resources regarding cadet uniforms. NOT SUBSTANTIATED.
- c) Allegation 3: O/a 12 May 22, violated privacy guidelines by disclosing protected information to a subordinate commander. NOT SUBSTANTIATED.
- d) Allegation 4: Between o/a 1 Aug 21 and o/a 12 May 22, failed to enforce the Air Force cultural standards on conduct, performance, and discipline by wearing an unauthorized name tape on his uniform. SUBSTANTIATED.

On 23 Jun 22, the applicant was issued a referral OPR for the period of 4 May 21 thru 27 May 22. The report was indicated, “Does Not Meet Standards” in sections III, *Performance Factors*, and IX *Leadership Skills and Judgment and Decisions*, and comments include, “Failed to enforce prgm standards; led to unequal treatment of cadets—removed from command for loss of confidence.”

On 28 Jun 22 the applicant submitted a rebuttal in response to the referred final OPR and included an email from his commander and a character statement from his former AFROTC sub-region commander as supporting documentation.

On 11 Jul 22, the applicant acknowledged his referral OPR and marked “No” to “I acknowledge all required feedback was accomplished during the reporting period and upon receipt of this report.”

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

## **APPLICABLE AUTHORITY**

DAFI 36-2406, para 1.4.4., Attachments to Evaluations. Attachments are considered to be part of the evaluation. Acceptable attachments are referral memorandums, rebuttals to referrals (which could include AF Form 77s that are not part of the official record), endorsement memorandums.

## **AIR FORCE EVALUATION**

AFPC/DP3SP (Evaluation/Recognition Programs) recommends denying the application. The applicant submitted an evaluation appeals case in the Case Management System (CMS), which

was referred to AFPC/DPMSPE on 20 Sep 22. The case was returned without action on 17 Oct 22 due to lack of evidence and was automatically closed by the system on 17 Nov 22 due to inactivity. An OPR extension request was submitted to AFPC/DPMSPE on 9 May 22 requesting a closeout date of 27 May 22; the extension was approved, and the unit was notified on 10 May 22. The applicant was relieved of Command on 12 May 22 for failure to enforce program standards/loss of confidence by the AFROTC Region/CC. The AFROTC Region/CC has had numerous substantiated Inspector General (IG) complaints as well as evaluation appeal cases which were approved by the Evaluation Reports Appeal Board due to injustices done to other members' evaluations. The applicant's submission has not provided any evidence of an error or injustice done to him. Most of the applicant's submission is his own interpretation of the situation. In the one third-party neutral documentation, allegations against the AFROTC Region/CC were NOT SUBSTANTIATED by the IG, other than finding him wearing an unauthorized uniform patch.

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 20 Jun 23 for comment (Exhibit D), and the applicant replied on 5 Jul 23. In his response, the applicant argues the initial review missed the utmost important facts of his submission. He reiterates his contention he did not provide further information to AFPC because he no longer had access to his military account, and it was not due to him not providing sufficient evidence. AFPC failed to highlight his supervisor purposefully misled leadership in order to gain an extension to extend the OPR close out date. The operational team visited 23-24 Mar 22, nearly six weeks before his commander claims it took place (29-30 Apr) ultimately ensuring his removal from command was within the approved time period. Furthermore, AFPC did not note the failure to include his rebuttal to the contested OPR which did not afford him the appropriate representation of his official records. The applicant contends there is a clear pattern of behavior since there are numerous substantiated IG complaints and ERAB cases against the AFROTC Region/CC, as well as current DoD IG complaints of reprisal by two other individuals. The applicant strongly requests the Board take into consideration the facts he has highlighted and AFPC's discovery of numerous approved ERAB cases against the AFROTC Region/CC.

The applicant's complete response is at Exhibit E.

### **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/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. 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-2023-00931 in Executive Session on 6 Mar 24:

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Panel Chair

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Panel Member

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Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 20 Mar 23.

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

Exhibit C: Advisory Opinion, AFPC/DP3SP, w/atchs, dated 12 Jun 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 20 Jun 23.

Exhibit E: Applicant's Response, w/atchs, dated 5 Jul 23.

Exhibit F: Holm Center IG Determination, dated 23 Jun 22 (WITHDRAWN)

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.

4/2/2024

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