



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01464

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. Retroact his demotion to one rank instead of two (master sergeant (E-7) to staff sergeant (E-6) vs master sergeant (E-7) to staff sergeant (E-5)) to allow for full High-3 pension as a technical sergeant (E-6) instead of staff sergeant (E-5).
2. Back pay of the differential from E-5 to E-6 from Oct 2018 thru Apr 2022.

APPLICANT'S CONTENTIONS

This exaggerated demotion was a subversion of his rights and had illegal intentions from Air Force Recruiting Service (AFRS) as stated by his attorney. Although not being able to prove it is the speculation of his attorney and himself that the AFRS demoted him two grades to illegally separate him via High-Year-Tenure (HYT) in 2018, since there were no other avenues for them since he was barred from courts-martial and nonjudicial punishment due to set statutes of limitations. He was not offered any other means of rehabilitation. His 15-year, 11-month career in his opinion was not taken into consideration at the time of demotion as the Air Force Instruction (AFI) states he should have been afforded. He was immediately removed from the career field he had been in for 12-plus years and detailed to the base chapel on [AFB] where he eventually was allowed to retrain into Religious Affairs and spent his final 4 years. He allowed the Satisfactory Service Determination (SSD) at the Secretary of the Air Force's (SECAF) Office run its course, and now requests the Air Force Board for Correction of Military Records review his claim. Although this happened in 2018, he had no other recourse of fighting until now that he is retired. The SSD was approved by the SECAF office in Mar 2023 to allow him to advance on the retired rolls to master sergeant upon his 30-year total service (Nov 2032). This shows him that Headquarters Air Force recognizes there was some subjectivity and agreement that his case was unjust.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 17 Sep 2018, according to documentation submitted by the applicant, the applicant received a Letter of Reprimand (LOR) for engaging in an adulterous, romantic, sexual relationship with a recruit while he was her recruiter in fall of 2007, which was in direct violation of AFI 36-2909, *Air Force Personal Relationships and Conduct*, Air Force Recruiting Service Instruction 36-2001, *Recruiting Procedures for the Air Force*, and the Uniform Code of Military Justice, Article 92.

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On 24 Sep 2018, according to documentation submitted by the applicant, the applicant's commander recommended he be administratively demoted to the rank of staff sergeant (E-5) under provisions of AFI 36-2502, *Enlisted Airman Promotion/Demotion Programs*, para 6.3.4, specifically, failure to fulfill responsibilities.

On 26 Sep 2018, according to documentation submitted by the applicant, the applicant responded to the Notification of Intent to Administratively Demote.

On 27 Sep 2018, according to documentation submitted by the applicant, the applicant's Area Defense Counsel responded to the Notification of Intent to Administratively Demote.

On 5 Oct 2018, the applicant was demoted two grades from master sergeant (E-7) to staff sergeant (E-5).

On 12 Oct 2018, according to documentation submitted by the applicant, the applicant appealed his demotion.

On 18 Oct 2018, HYT was adjusted which allowed staff sergeants (E-5) to remain on active duty with 20 years' time in service.

On 10 Jan 2019, the applicant's commander notified him of his intent to render a referral Enlisted Performance Report (EPR) and the applicant acknowledged receipt.

On 14 Jan 2019, the applicant responded to receipt of the referral EPR.

According to AF Form 911, *Enlisted Performance Report (MSgt thru SMSgt)*, with close out date of 30 Sep 2018, the applicant received a referral EPR which included documentation for other infractions and maintaining an unprofessional relationship with a recruit during his tenure as a recruiter. The EPR was signed by the commander and applicant on 23 Jan 2019.

On 21 Dec 2021, according to documentation submitted by the applicant, the applicant requested a SSD.

On 1 Apr 2022, the applicant was promoted to technical sergeant (E-6).

On 1 Dec 2022, according to DD Form 214, the applicant retired from active duty in the rank of technical sergeant (E-6). He was credited with 20 years and 12 days of total active service.

On 23 Jan 2023, SAF/PC determined that the applicant did serve satisfactorily in the higher grade of master sergeant (E-7) and the applicant's advancement to that grade on the retired list is directed, effective the date of completion of all required service.

According to Special Order Work-Product, dated 29 Mar 2023, effective 19 Nov 2032, the applicant will be advance to the grade of master sergeant (E-7) on the United States Air Force retired list by reason of completing a total of 30 years active service plus service on the retired list on 18 Nov 2032, IAW 10 USC 9344 and 9361 and SAF/PC memo dated 23 Jan 2023.

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

AIR FORCE EVALUATION

AFPC/DPMSSP recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The [Wor...] RCS/CC was within his authority as the commander to demote the applicant. The applicant was allowed to appeal the demotion which was denied. The demotion process was IAW AFI 36-2502, para 6.2 and the actions were found legally sufficient under the law and policies at the time.

AFPC/JA recommends denying the application. The applicant's arguments for relief are lacking. The applicant asserts he should not have lost two grades in the administrative demotion because so much time passed between his alleged misconduct and when the [Wor...] RCS/CC took action, that it is fundamentally unfair. In 2018, the [Wor...] RCS/CC was made aware of the unprofessional relationship from years earlier, investigated the matter, and took the steps he deemed appropriate within the parameters of his authority as the commander to further good order and discipline. Such actions do not represent injustice rather appropriate accountability based on when the commander learned of the misconduct.

The applicant also asserts that based on his record after the alleged misconduct, he demonstrated he was a capable Senior Non-Commissioned Officer (SNCO) and therefore the LOR and administrative demotion action serve as misguided and unnecessary attempts at rehabilitation. This argument however is also lacking as it fails to consider two important points. First, as noted in the LOR, the passage of time is the only reason this misconduct was not being addressed with harsher punitive actions (i.e. nonjudicial punishment, courts-martial, etc.). Second, while one purpose of administrative action is rehabilitative, another purpose is to serve as progressive discipline because some behavior even in the first instance deserves a more severe form of action. (See DAFI 36-2907, paragraph 1.1).

The complete advisory opinions are at Exhibit C and Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinions to the applicant on 16 Oct 2023 for comment (Exhibit E), 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 recommendations of AFPC/DPMSSP and AFPC/JA and finds a preponderance of the evidence does not substantiate the applicant's contentions. The [Wor...] RCS/CC was within his authority as the commander to demote the applicant, and the applicant was allowed to appeal the demotion which was denied. The demotion process was IAW AFI 36-2502, para 6.2 and actions were found legally sufficient under the law and policies in effect at the time. 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 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-2023-01464 in Executive Session on 6 Mar 24:

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 17 May 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSPP, dated 13 Oct 23.
- Exhibit D: Advisory Opinion, AFPC/JA, dated 16 Oct 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 16 Oct 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.

3/14/2024

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