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

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-02426

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**COUNSEL:** NONE

**HEARING REQUESTED:** YES

**APPLICANT'S REQUEST**

1. His rank/pay grade be amended to reflect senior airman (E-4).
2. He be given backpay for loss of pay due to the administrative demotion.

**APPLICANT'S CONTENTIONS**

He was demoted to airman (E-2) 10 days before he was to be promoted to senior airman (E-4). He believes his demotion was reprisal from his commander. He was demoted so he would not be eligible to fight the demotion in a court-martial. The reason for his demotion was due to driving under the influence (DUI) which was incorrect because he was under Arizona legal limit. Arizona never charged him with anything because there was no wrongdoing on his part. He believes the commander demoted him because the unit had an increase in DUIs and the commander wanted to make an example of him, even though there were no grounds for demotion. The demotion caused economic hardship and forced him to separate. He struggled financially for over a year after he separated.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force airman (E-2). According to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was honorably discharged on 29 May 21. He was credited with four years of active service.

On 30 May 17, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the Regular Air Force in the grade of airman (E-2).

On 30 Mar 18, according to an AFPC/DPMSP (Enlisted Promotions) timeline, the applicant was promoted to airman first class (E-3).

On 4 Jul 18, according to the Police Report for Incident, the applicant was arrested and charged with driving under the influence with a breath alcohol content of .169.

On 22 Oct 18, according to the *Administrative Demotion of Airmen Memorandum*, the applicant's commander-initiated demotion actions under the provisions of Air Force Instruction (AFI) 36-2502, *Airman Promotion/Demotion Programs*, paragraph 6.3.4. The demotion authority deemed the demotion appropriate on this same date.

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On 22 Aug 19, according to an AFPC/DPMSPP timeline , the applicant was promoted to airman first class (E-3).

On 6 Dec 19, according to AF Form 964, *PCS, TDY, Deployments, or Training Declination Statement*, the applicant declined to obtain retainability for reassignment.

On 17 Oct 20, according to the Trooper Report for Incident, the applicant was arrested and charged with driving under the influence slightest degree with a blood alcohol content of 0.081.

On 10 Mar 21, according to the *Administrative Demotion of Airmen Memorandum*, the applicant's commander-initiated demotion actions under provisions of AFI 36-2502, paragraph 6.3.5. The demotion authority deemed the demotion appropriate on 7 Apr 21.

According to Special Order **Work-Product**, dated 21 Apr 21, the applicant was demoted to the grade of airman (E-2) effective 7 Apr 21.

On 6 Dec 23, SAF/MRBC requested from SAF/IG any/all IG reports pertaining to the applicant. SAF/IG responded on 14 Dec 23 stating they were unable to find any IG reports pertaining to the applicant.

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

## AIR FORCE EVALUATION

AFPC/DPMSPP recommends denying the request to have his rank/paygrade amended to reflect senior airman (E-4). Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant was demoted twice for driving under the influence (DUI) with an alcohol concentration of 0.08 percent or more within the state of Arizona. On 22 Oct 18, the applicant was demoted to the grade of airman (E-2) for his initial DUI, and then demoted on 7 Apr 21, to airman (E-2) for his second DUI involving a collision with a vehicle. The applicant signed an AF Form 964, with the understanding he would be ineligible for promotion for the remainder of his enlistment as a result of not accepting a permanent change of station assignment. The AF Form 964, IAW Department of the Air Force Instruction 36-2502, and AFI 36-2606, *Reenlistment and Extension of Enlistment in the United States Air Force*, pertains to loss of reenlistment and promotion eligibility.

Promotion dates are as follows:

30 May 17 - Airman (E-2)

30 Mar 18 – Airman first class (E-3)

22 Oct 18 – Airman (E-2)

22 Aug 19 – Airman first class (E-3)

7 Apr 21 – Airman (E-2)

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 1 Dec 23 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/DPMSPP and finds a preponderance of the evidence does not substantiate the applicant's contentions. It appears the demotion was consistent with the requirements of the demotion regulation and was within the commander's discretion. Nor was the demotion unduly harsh or disproportionate to the offense committed. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant alleges he has been the victim of reprisal and has not been afforded full protection under the Whistleblower Protection Act (10 USC § 1034). By policy reprisal complaints must be filed within one year of the alleged incident or discovery to facilitate the inspector general (IG) investigation. However, the applicant has not provided any evidence he filed an IG complaint alleging reprisal. Nevertheless, the Board reviewed the complete evidence of record to reach its own independent determination of whether reprisal occurred. Based on our review, the applicant has failed to provide substantial evidence to establish he was reprised against. Therefore, in the absence of persuasive evidence to the contrary, we do not find that the applicant has been the victim of reprisal.
5. 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-2023-02426 in Executive Session on 23 Apr 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, dated 26 Jul 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSPP, dated 1 Dec 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Dec 23.

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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.

7/26/2024

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Board Operations Manager, AFBCMR

Signed by:

*Work-Product*

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