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

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RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2023-03935

COUNSEL: Work-Product

HEARING REQUESTED: Work-Pr...

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APPLICANT'S REQUEST

1. Restoration of his grade to master sergeant (E-7), effective 1 August 2015.
2. Award of all pay and allowances earned based on grade restoration.

APPLICANT'S CONTENTIONS

He honorably served his country for over 22 years and would appreciate receiving all the pay and allowances earned. Currently, he is being paid as a retired technical sergeant (E-6), but effective 25 September 2026, he will retire in the grade of E-7. He was not given the opportunity to attend rehab until after retirement, and his entire career was not fully considered, despite consistently rating above peers. Due to his illness, he was demoted and humiliated by leadership in front of peers and subordinates.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force E-6.

On 25 September 1996, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the Regular Air Force.

On 1 November 2008, according to AFPC/DPMSP, the applicant was promoted to the grade of E-6.

On 1 August 2015, according to AFPC/DPMSP, the applicant was promoted to the grade of E-7.

On 14 November 2018, according to Administrative Demotion of Airmen Memorandum and Indorsements, provided by the applicant, the applicant was demoted to the grade of E-6.

On 31 January 2019, according to Special Orders No. Work-Product, dated Work-Product, the applicant retired in the grade of E-6 and his Highest Grade Held on active duty was the grade of E-7.

On 1 February 2019, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was released from the Regular Air Force in the grade of E- 6. He was credited with 22 years, 4 months, and 6 days of active service.

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On 14 March 2019, according to Secretary of the Air Force Personnel Council (SAFPC) memorandum, the applicant was found to have served satisfactorily in the grade of E-7 and will be advanced to that grade on the retired list effective on the date of completion of all required service.

On 28 June 2019, according to Special Orders No. **Work-Product**, dated **Work-Product**, effective 25 September 2026, Special Orders No. **Work-Product**, dated **Work-Product**, was amended to include the applicant was advanced to the grade of E-7 on the USAF retired list by reason of completing a total of 30 years active service plus service on the retired list on 24 September 2026, under the authority of 10 USC 9344, 9362 and SAFPC memorandum, dated 14 March 2019.

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/DPMSP (Enlisted Promotions) recommends denying the application. On 25 September 1996, the applicant enlisted in the Regular Air Force and was progressively promoted to the grade of E-7 effective 1 August 2015.

On 14 November 2018, the applicant was administratively demoted to the grade of E-6.

Per Special Order No. **Work-Product**, dated **Work-Product**, and SAFPC memorandum, dated 14 March 2019, the applicant's grade will be advanced to E-7 on the USAF retired list by reason of completing a total of 30 years active service plus service on the retired list on 24 September 2026.

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 current grade of E-6 is correct until 24 September 2026.

The complete advisory opinion is at Exhibit C.

AFPC/JA recommends denying the applicant's request to restore his grade to master sergeant (E-7) for the purpose of retirement. On 27 October 2018, the squadron commander initiated a demotion action against the applicant due to his failure to fulfill his Senior Non-Commissioned Officer (SNCO) responsibilities after being arrested for Driving Under the Influence (DUI). The demotion was finalized on 14 November 2018. The applicant appealed the decision, but it was denied on 7 January 2019. Throughout the demotion process, the applicant was provided with all due process rights. Subsequently, the applicant applied for and was approved to retire in the grade of technical sergeant (E-6), effective 1 February 2019.

On 28 June 2019, in response to an application for a Satisfactory Service Determination request, SAFPC authorized the applicant to be advanced to the grade of master sergeant (E-7) on the retired list upon completing a combined total of 30 years of active service and service on the retired list. Special Orders No. **Work-Product** set the advancement to be effective on 24 September 2026. Under 10 USC 1552, which governs the Board for Correction of Military Records process, federal courts have defined "injustice" as behavior or actions that rise to a level that shocks the conscience (*Sawyer v. United States*, 18 Ct.Cl.800 (1989)). This high standard requires more than just showing that an action negatively impacted the applicant.

The applicant asserts he suffered an injustice for two reasons. First, he claims his demotion under DAFI 36-2502, *Enlisted Airman Promotion and Demotion Programs*, for failure to fulfill his NCO

responsibilities was improper because his service record was otherwise exemplary, supported by his service record and character letters. While DAFI 36-2502, paragraph 6.1.4, requires the commander consider the entire military record when determining demotion, it is not the sole factor. In this case, the demotion authority determined, by a preponderance of evidence, the applicant drove while intoxicated. The applicant's response to the demotion acknowledged speeding to pass traffic, being pulled over, the officer smelling alcohol, failing sobriety tests, and ultimately failing a breath test leading to his DUI arrest. The applicant admitted his wrongdoing and apologized. Therefore, it is reasonable and not a gross injustice for even a highly decorated Airman to face demotion for driving under the influence.

Second, the applicant claims injustice because he was not given the opportunity to address his deficiencies before demotion, such as attending an alcohol rehabilitation program, as outlined in DAFI 36-2502, paragraph 6.1.5. This argument is insufficient, as administrative actions also aim to maintain good order and discipline. Some behaviors, including first-time offenses, warrant more severe action (DAFI 36-2907, *Adverse Administrative Actions*, paragraph 1.1). The demotion authority acted within their jurisdiction and authority to maintain good order and discipline. Therefore, demoting a SNCO found to have likely driven under the influence does not constitute an injustice that shocks the conscience as per 10 USC 1552.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent copies of the advisory opinions to the applicant on 5 April 2024, for comment (Exhibit E), but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement.
2. The applicant exhausted all other available administrative remedies 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/DPMSP and AFPC/JA and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant's grade will advance to E-7 on the USAF retired list on September 24, 2026, after completion of 30 years of service. While the applicant asserts that his demotion for not fulfilling NCO responsibilities was unjust, the evidence against him justified the demotion. Additionally, the applicant's claim of injustice for not being given a chance to address his issues before demotion is insufficient. The demotion, given the circumstances, was within the appropriate authority and does not constitute a gross injustice. The Board finds no evidence of an injustice or error in the applicant's discharge to warrant granting relief. 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-2023-03935 in Executive Session on 19 July 2024:

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 30 November 2023.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSP, dated 19 March 2024.
- Exhibit D: Advisory Opinion, AFPC/JA, dated 3 April 2024.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 5 April 2024.

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.

9/27/2025

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Associate Director, AFBCMR

Signed by: USAF