

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00609

COUNSEL:

HEARING REQUESTED:

APPLICANT'S REQUEST

His rank of colonel (O-6) be restored for retirement purposes.

APPLICANT'S CONTENTIONS

The Grade Determination Review Board (GDRB)[sic] made a mistake by not applying the proper legal and factual standards in assessing his case. There was no evidence to justify an adverse decision, and the available records, including the recommendation from the Wing Commander, show that he served successfully as a colonel. His career has been marked by honorable service, and the allegations against him stemmed from an investigation prompted by two subordinates who resisted accountability.

Despite more than 32 years of dedicated service, his rank was reduced arbitrarily in retirement, which was unjust. The investigation was flawed, and the complaints came from individuals with motives to avoid responsibility. The reduction in rank was based on issues that were considered minor and were initially handled at a lower level, with the Letter of Reprimand (LOR) later downgraded to a Letter of Admonishment (LOA). Additionally, two Wing Commanders independently determined his service as satisfactory, but the State Headquarters ignored their recommendations.

The case is a miscarriage of justice, with unsupported allegations and a failure to provide specific details about his timecard issues. The purpose of the GDRB is to ensure an officer's service is recognized properly upon retirement, and in this case, the decision to reduce his rank was an error. His honorable service and the flawed investigation provide two clear reasons to reverse the decision.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 15 December 2017, according to Special Order [REDACTED], dated 22 December 2017, the applicant was promoted to the grade of O-6.

In April 2020, the Department of Defense/Inspector General (DoD/IG) Hotline received an anonymous complaint alleging misconduct by the applicant, at the time, the Commander of his

AFBCMR Docket Number BC-2024-00609

[REDACTED]

unit. The applicant's misconduct was alleged to have occurred both in his current position and in his prior role as Vice Commander of his Wing.

On 9 April 2020, the State Air Inspector General referred the complaint to the [State] ANG/CC for investigation and on that same date, the State Assistant Inspector General notified SAF/IGQ of the allegations against a senior officer.

Allegation 1: The applicant on an unspecified date, misappropriated government funds in violation of Article 121 of the Uniform Code of Military Justice, by placing a subordinate member of his command on nonessential TDY orders for the primary purpose of allowing the junior ranking service member to collect additional government funds while on TDY – funds which could then be used to pay down a large and past due balance the service member had previously accrued on their government travel card. **(NOT SUBSTANTIATED).**

Allegation 2: The applicant on an unspecified number of occasions and during an unspecified period of time, and while in his capacity as a federal technician, made, signed and filed false timecards securing additional income for himself which he was not in fact entitled to receive, in violation of the provisions of California National Guard Regulation 752 (6c of Attachment 3) – False Statements, Misrepresentation, or Fraud with Timecards. **(SUBSTANTIATED).**

Allegation 3: The applicant, on an unspecified number of occasions and during an unspecified period of time, misappropriated government funds in violation of Article 121 of the Uniform Code of Military Justice, by placing himself into military status when there was no mission essential reason for doing so and for the primary purpose of increasing his personal income through the collection of additional revenue. **(SUBSTANTIATED).**

Allegation 4: The applicant, on an unspecified number of occasions and during an unspecified period of time, exhibited conduct unbecoming an officer and a gentleman in violation of Article 133 of the Uniform Code of Military Justice, by creating a hostile work environment for those under his command through the use of inappropriate language, comments, and jokes and the display of behavior unfitting of an officer of his rank and position at the time. **(SUBSTANTIATED).**

Allegation 5: The applicant, in his role as the Vice Commander and MSG/CC, mismanaged unit funds and was derelict in the performance of his duties in violation of Article 92 of the Uniform Code of Military Justice, by repeatedly failing to follow procedures and rules for funds execution and placing his personal needs above the fiscal health of the unit. **(NOT SUBSTANTIATED).**

Other matters: The anonymous complainant also alleged the applicant “demonstrated an inability to lead.” The complainant alleged the applicant had zero practical knowledge with regard to the execution of the primary mission, readiness, Air Expeditionary Force reporting, and failed to understand procedures and rules for funds execution. **(The Investigation Officer (IO) found this allegation to be validated by relevant witness testimony. Importantly, applicant's Wing Commander testified that he did not believe the applicant should be in a command role. Nearly all the witnesses rated the applicant's leadership, practical knowledge, and impact on unit morale quite poorly. Many of applicant's subordinates expressed a lack of confidence in his leadership, skills, and abilities. The witnesses testified the applicant has had an overall negative impact on unit morale.)**

[REDACTED]

On 19 May 2020, the IO concluded the preponderance of evidence demonstrated the applicant submitted fraudulent timecards, inappropriately placed himself on military status, exhibited conduct unbecoming an officer, and lacks the practical knowledge, work ethic, and skill set required to command. The applicant's conduct as an officer has had a negative impact on the overall morale of Airmen who work for him. He recommended an audit of the applicant's time cards for the duration of 7 January 2018 to 19 May 2020, an audit of the applicant's rescheduled drill periods for fiscal years 2018 and 2019, and the AW/CC remove the applicant from command.

On 21 May 2020, according to a 9-page memorandum for the [State] ANG/CC, the Assistant Staff Judge Advocate), agreed with the IO's findings and concluded the weight of credible evidence, including sworn testimony, documents, records, and timeline in the record supports the IO's findings and conclusions. He found the Report of Investigation (ROI) legally sufficient and indicated the report addresses all of the matters under investigation, the findings are supported by a preponderance of the evidence, and the conclusions reached are consistent with those findings. He recommended as the Appointing Authority the [State] ANG/CC may: approve or disapprove the CDI. If he chose to disapprove the CDI, he should document his rationale and ultimate findings (substantiated or unsubstantiated) in and Addendum. That same day, the Appointing Authority reviewed, concurred, and approved the CDI findings and conclusion of the IO.

On 27 May 2020, as a result of the substantiated CDI findings, the applicant was issued an LOR. He provided a rebuttal to the LOR on 1 June 2020. On 2 June 2020, after taking the applicant's rebuttal into consideration, the [State] ANG/AAG-A (Assistant Adjutant General, Air) decided to downgrade the LOR to an LOA.

On 2 June 2020, the [State] ANG/CC relieved the applicant of command for cause.

On 3 June 2020, according to the Referral Completion Report, the [State] ANG/CC concurred with the findings and conclusions of the CDI.

On 30 June 2021, according to Reserve Order [REDACTED], dated 3 January 2023, the applicant was relieved from his assignment and assigned to the Retired Reserve Section and placed on the USAF Reserve Retired List. His retired pay grade reflects O-5.

On 19 December 2022, according to Secretary of the Air Force action, the applicant was found to have served satisfactorily in the grade of O-5 within the meaning of Section 1370a of Title 10, United States Code (10 U.S.C. § 1370a) and it was directed that he be retired in that grade.

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

AIR FORCE EVALUATION

SAF/MRBP (Secretary of the Air Force Personnel Council) recommends denying the application. 10 U.S.C. §1370a(a) provides as follows: Unless entitled to a different grade, or to credit for satisfactory service in a different grade under some other provision of law, a person who is entitled to retired pay under chapter 1223 of this title shall, upon application under section 12731 of this title, be credited with satisfactory service in the highest permanent grade in which that person served satisfactorily at any time in the armed forces, as determined by the Secretary of the military department concerned in accordance with this section. The aforementioned provision is implemented within the Department of the Air Force through Department of the Air Force Instruction (DAFI) 36-3203, *Service Retirements*. The Secretary of the Air Force has delegated the

AFBCMR Docket Number BC-2024-00609

[REDACTED]



authority to determine whether an officer's service in a particular grade has been satisfactory to the Director of the Air Force Review Boards Agency (SAF/MRB). Review by the Air Force Personnel Board (AFPB) is required. In considering whether a service in a particular grade is satisfactory, the AFPB and SAF/MRB must consider the nature and length of the officer's improper conduct; the impact the conduct had on military effectiveness; the quality and length of the officer's service in each grade at issue; past cases involving similar misconduct; and the recommendations of the officer's chain of command. In some cases, a single incident of misconduct can render service in a grade unsatisfactory despite a substantial period of otherwise exemplary service.

As a threshold matter, a review of the case revealed no procedural errors. The AFPB properly comprised of five voting members fully considered this case after reviewing the evidence of record and made a recommendation as to disposition. SAF/MRB considered the AFPB recommendation, the chain of command recommendations, and the evidence of record prior to determining the applicant's service in the grade of O-6 (colonel) was unsatisfactory.

SAF/MRBP did not find the applicant's arguments or contentions persuasive. The applicant's contention that the allegations within the CDI were vague, overly broad, and unsupported by the evidence is without merit. The evidence considered by the AFPB and SAF/MRB included the CDI Report of Investigation. The investigating officer reached his findings and conclusions after interviewing at least nine individuals and reviewing various documents. The available records sufficiently showed by a preponderance of the evidence the applicant signed and filed false timecards while in his capacity as a federal technician, misappropriated funds by improperly placing himself into military status without a mission essential reason and used inappropriate comments in the workplace. In short, the record was sufficient for his command, the AFPB, and SAF/MRB to understand the nature and extent of the applicant's misconduct. They were also sufficient to put the applicant on notice of the alleged misconduct, and the record reveals the applicant provided a comprehensive response to the allegations. This record also supported the decision to give and uphold adverse action against the applicant and remove the applicant from his command position. In short, the facts on record were sufficient to support the substantiated allegations.

The remaining contentions by the applicant similarly do not support relief in this case. The applicant highlighted his career accomplishments, lengthy service, his prior response to the adverse action, the fact the LOR was downgraded to an LOA, and letters attesting to his character. SAF/MRBP noted the AFPB and SAF/MRB effectively considered these matters in reaching their respective determinations on this case. Similarly, the reviewing and decision authorities reviewed the recommendations from the applicant's Wing Commander recommending retirement in the higher grade. That said, these authorities also reviewed the recommendations of the leadership of the [State] National Guard and the Director of the Air National Guard, both of whom recommended the applicant be retired in the lower grade. SAF/MRBP also reviewed the applicant's personal statement and additional character letters submitted in his application. Neither these matters nor an additional review of the applicant's cases led them to conclude that SAF/MRB's determinations are procedurally or legally erroneous, arbitrary, or unjust. The applicant's arguments are duly noted; however, the evidence provided by the applicant in support of his request is not sufficient to conclude he is the victim of an error or injustice.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

AFBCMR Docket Number BC-2024-00609



[REDACTED]

The Board sent a copy of the advisory opinion to the applicant on 25 September 2024 for comment (Exhibit D), and the applicant replied on 18 December 2024. In his response, counsel on behalf of the applicant contended he believes and therefore avers the advisory opinion is of little to no relevance in the Board's analysis. The opinion does not address any of the underlying facts and ignores the clear abuse of discretion by the GDRB[sic]. Even if we assume for the purposes of argument there was ever any merit to allegations giving rise to the adverse action, that does not explain the arbitrary and capricious decision of the GDRB[sic]. Our legal system has a clear disdain for arbitrary and capricious decisions. According to DAFI 51-209[sic], *Administration of Military Justice*, a decision is arbitrary and capricious if there is an, "absence of a rational connection between the facts found and the choice made, constituting a clear error of judgment or the action does not appear to be supported by fair, solid, and reasonable cause, or based upon consideration of relevant factors."

The applicant served not just satisfactorily, but with excellence in the rank of colonel. Both before and after the allegation of misconduct the record demonstrates that stellar service. All of the evidence, including the clear recommendation of the Wing Commander, support retention of rank. There is not only no factual or legal justification for disregarding the Wing Commander's recommendation, but the advisory opinion does nothing to explain or justify the failure to apply the appropriate legal standard to the facts of the case.

In addition to the matters addressed in the additional submission, the advisory opinion fails to address the denials of the Freedom of Information Act and Public Records Act requests that have negatively impacted the applicant's ability to address the clear abuse of discretion that occurred in this case. The record contains significant issues ranging from alleging timecard violations without specificity on when they occurred and failing to provide the applicant with a third and final Officer Performance Report when his final year of service was absolutely stellar, to the State Headquarters, ignoring his service records and arbitrarily disregarding the Wing Commander's finding that he had served satisfactorily and should maintain his rank in retirement.

While this honorable Board is required to give deference to prior decisions and command actions, it is clear that in this case the evidence supports relief. The GDRB[sic] failed to apply the appropriate legal standard and reached what is obviously an arbitrary and capricious decision in direct contradiction of the records and recommendation of the applicant's commander.

In light of material error and material injustice, it is respectfully requested that this honorable Board grant the applicant a records correction. It is clear that an abuse of discretion resulted in the reduction of rank. Justice and fairness can be restored through granting the relief requested.

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 SAF/MRBP and finds a preponderance of the evidence does not substantiate the applicant's contentions. This Board's examination found no procedural errors in the case. SAF/MRB and the AFPB's five voting members thoroughly considered the evidence and came to the conclusion that the applicant's O-6

[REDACTED]

service was unsatisfactory. SAF/MRBP found the applicant's arguments unpersuasive. The contention that CDI allegations were vague and unsupported lacks merit; the investigating officer interviewed multiple individuals and reviewed documents, sufficiently demonstrating the applicant signed false timecards, misappropriated funds, and made inappropriate comments. This record supported adverse action and removal from command. The applicant's career accomplishments, prior response to adverse action, downgrade of an LOR, and character letters were effectively considered by the AFPB and SAF/MRB. Reviewing authorities also considered conflicting recommendations regarding retirement grade. Finally, the applicant's arguments and additional submissions did not demonstrate procedural or legal error, arbitrariness, or injustice in SAF/MRB's determinations. The evidence presented was insufficient to conclude the applicant was a victim of error or injustice. 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-2024-00609 in Executive Session on 24 April 2025:

[REDACTED] Panel Chair
[REDACTED] Panel Member
[REDACTED], Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 8 February 2024.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, SAF/MRBP, dated 24 September 2024.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 25 September 2024.
- Exhibit E: Applicant's Response, w/atchs, dated 18 December 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.

10/30/2025

X [REDACTED]

[REDACTED]
Associate Director, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2024-00609

[REDACTED]