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

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-01711

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**COUNSEL:** NONE

**HEARING REQUESTED:** NO

**APPLICANT’S REQUEST**

His nonjudicial punishment (NJP) under Article 15, Record of Nonjudicial Punishment Proceedings, of the Uniform Code of Military Justice (UCMJ) and any associated derogatory information be removed and expunged from his official military records.

**APPLICANT’S CONTENTIONS**

His NJP under Article 15 was unfairly tendered, excessive to the situation, showed a bias against himself, and possibly due to racism. The alleged violations under Article 134, UCMJ, *Conduct Prejudicial to Good Order and Discipline*, are not supported by the required evidence of Air Force Instruction (AFI) 51-202, *Nonjudicial Punishment*, or comply with the applicable caselaw of Part V, Manual for Courts-Martial (MCM), *Nonjudicial Punishment*. The supporting statements fail to meet the strict requirements of 5 United States Code Section 552a, *Records maintained on individuals*, for accuracy, timeliness, and completeness.

He delayed the submission of his request because he did not want reprisal from his leadership, new disciplinary actions, or proceedings against him, in the event his NJP action was removed from his records.

The applicant’s complete submission is at Exhibit A.

**STATEMENT OF FACTS**

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

On 26 May 2020, the applicant’s commander offered him NJP, under Article 15, UCMJ, and considered whether he should be punished for three specifications of wrongful oral communication of indecent language, in violation of Article 134, UCMJ.

On 29 May 2020, after consulting with an attorney, the applicant waived his right to court-martial, accepted the NJP proceedings, attached a written presentation, and requested a personal appearance before his commander, that was not public.

On 8 June 2020, the applicant’s commander found he committed two of the three alleged offenses, and he received NJP under Article 15, UCMJ. Specifically, the applicant wrongfully and orally communicated indecent language to two senior airmen, in violation of Article 134, UCMJ. He received 30 days extra duty and a reprimand.

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On 15 June 2020, the applicant elected to appeal his NJP action by submitting matters in writing for both the appeal and consideration of matters for his Senior Noncommissioned Officer Selection Folder (SNCOSF).

On 19 June 2020, after considering all the matters presented, the commander denied his appeal, determined the NJP action would be filed in his SNCO Selection Record and unfavorable information file.

On 2 July 2020, after considering all the matters presented in the applicant's appeal, the appellate authority further denied his appeal.

On 10 July 2020, the applicant acknowledged the actions taken on his appeal, the SNCOSF and UIF decision.

On 13 July 2020, a Staff Judge Advocate legal review found the record to be legally sufficient and the action was final.

On 22 July 2020, the General Court-Martial Convening Authority Administrative Supervisory Review found the record to comply with AFI 51-202 and Part V, MCM.

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

### **AIR FORCE EVALUATION**

AF/JAJI recommends denying the application. The applicant has the burden of providing evidence in support of his allegations of an error or injustice. There is insufficient evidence to demonstrate a legal error or injustice.

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 31 July 2024 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 AF/JAJI and finds a preponderance of the evidence does not substantiate the applicant's contentions. In accordance with AFI 51-202, in effect during the applicant's NJP proceedings, there was no specific standard for NJP. Commanders were, however, obligated to recognize a member's right to demand trial by court-martial, where conviction required proof beyond a reasonable doubt of each element of every

offense, supported by legal and competent evidence. 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-2024-01711 in Executive Session on 5 March 2025:

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 7 May 2024.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AF/JAJI, dated 18 July 2024.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 31 July 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.

4/9/2025

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