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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01956

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The referral AF Form 707, *Officer Performance Report (OPR) (Lt thru Col)*, rendered for the period 23 March 2019 thru 22 March 2020, be removed from his record.

APPLICANT'S CONTENTIONS

In a six-page brief, the applicant's counsel contends the OPR should be removed from his record due to significant errors contending that: 1) The underlining LOA was not properly filed or maintained; 2) The rater was coerced into signing the referral OPR 3) The OPR references an unrelated medical issue; and, 4) The comments in the OPR were improperly vague and do not specifically state the alleged misconduct.

In June 2019, the applicant received a Letter of Admonishment (LOA). The LOA, however, was never filed in the applicant's personnel record. There is still no official record of the LOA.

In May of 2020, the applicant's rater drafted a "meets standards" OPR, which was signed by the additional rater and the reviewer/commander. In June of 2020, the FSS/CC and FSS/DO met with the rater and presented her with the LOA. The FSS/CC and FSS/DO told the rater the applicant would receive a referral OPR, and that she would need to sign the referral OPR. After this meeting, the rater reached out to the first sergeant who verified the applicant had no derogatory information in his record. The first sergeant, who was also the reviewer, stated he was unaware of any administrative action, such as an LOA presented by FSS Leadership.

On 29 June 2020, the FSS/DO scheduled a meeting with the rater and applicant. There, they presented the referral OPR and requested the rater, and the applicant's signature. The rater stated she felt coerced into signing the referral OPR. She did not draft the new comments in the referral OPR, nor did she have an opportunity to ensure the information used to document the applicant's performance was reliable or supported by a preponderance of the evidence. She did not have the opportunity to consult with the servicing staff judge advocate regarding the referral OPR. She was presented with an LOA which was not filed anywhere in the record and then was presented with another version of the original OPR which included derogatory comments. She was told to sign this document in the meeting by the FSS/DO. The rater later drafted a memorandum detailing her concerns during this process. The referral OPR was a product of coercion. AFI 36-2406, *Officer and Enlisted Evaluation Systems*, paragraph 4.9, states, "...no evaluator may coerce another into changing their comments or ratings unless they are missing mandatory comments, or the evaluation includes prohibited comments."

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The dates concerning the desk drawer LOA and medically cancelled deployment are significant to highlight. The applicant was removed from deployment in mid-February 2019 for medical reasons. The desk drawer LOA was drafted on 20 June 2019. An AF Form 469, *Duty Limiting Condition Report*, was initiated on 12 February 2019 and expired 12 June 2019. The deployment referenced in the OPR had a projected departure date of April 2019. Specifically, the bullet states, "Unprofessional conduct disrupted unit good order/discipline--pending deploym't canx--rcv'd LOA from 633 FSS/CC." The only deployment cancelled during the relevant rating period was due to a medical condition and the applicant's health not meeting the expeditionary medical out-processing requirements. As such, the OPR improperly referenced a medically cancelled deployment in a derogatory manner.

Furthermore, there was no underlying performance, behavior or misconduct identified in the referral OPR, and this further constitutes an injustice. AFI 36-2406, para 1.12.4.4 states "disciplinary actions must be reasonably specific, clearly outlining the event and/or behavior, comments like conduct unbecoming is too vague."

Since this incident, the applicant has continued to perform at the highest level. He has no derogatory information in his records with the sole exception of this improper OPR. The applicant has received numerous stratifications, several decorations and awards. More specifically, since this OPR, the applicant has received two additional Air Force Commendation Medals, additional Company Grade Officer awards, and #1 stratifications, including both rank and position stratifications. However, because of the improper actions previously taken with his referral OPR, he is facing a separation action, which is the very definition of injustice.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force captain (O-3).

The AF Form 707, rendered for the period 23 March 2019 thru 22 March 2020, Section III. *Performance Factors*, reflects "Does Not Meet Standards;" Section IV. Rater Overall Assessment "...Unprofessional conduct disrupted unit good order/discipline--pending deploym't canx--rcv'd LOA from 633 FSS/CC;" Section V. *Additional Rater Overall Assessment* reflects, "I have carefully considered Capt [Work-Pr...] comments to the referral document of 29 June 2020;" Section IX. *Performance Factors*, reflect 2. Leadership Skills "Does Not Meet Standards," 5. Judgment and Decisions "Does Not Meets Standards;" Section XI. *Referral Report*, reflects "my rating of "does not meet standards" in Section III, section IV referring to your unprofessional behavior which disrupted the squadron's good order and discipline resulting in a Letter of Admonishment and my ratings in Section IX of "does not meet standards" for both Leadership Skills and Judgment and Decisions during this performance period."

On 31 October 2024, according to DD Form 214, *Certificate of Release or Discharge*, the applicant was honorably discharged and credited with 9 years, 5 months, and 8 days net active service. His narrative reason for separation reflects "Non-Selection, Permanent Promotion."

The applicant filed an appeal through the Evaluation Report Appeals Board (ERAB) under the provisions of AFI 36-2406, *Correcting Officer and Enlisted Evaluation Reports*; however, it was

returned without action (RWOA) for not providing substantiated documentation or evidence to prove the final OPR was rendered unfairly or unjustly.

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

APPLICABLE AUTHORITY/GUIDANCE

AFI 36-2406, *Officer and Enlisted Evaluation System*, dated 14 Nov 19 20 May 20

Paragraph 1.9. Disagreements.

1.9.1. A disagreement is when a subsequent evaluator changes any rating or makes any statement that indicates obvious difference with a previous evaluator. Disagreements are a difference in perspective and should not be viewed negatively. When disagreements occur, they must be explained. On "wet signature" evaluations, the subsequent rater marks the non-concur block and initials the rating block that corresponds with their rating and/or provides specific comments to explain the disagreement. Digitally signed forms do not allow an evaluator to initial in a different rating block; therefore, the evaluator who disagrees must specifically state the performance factor in disagreement, the reason for the disagreement and their rating. (T-1).

1.9.2. Comments to support disagreements are required. (T-1). Example: Disagree with rater's assessment of Job Knowledge—TSgt Smith was unable to provide correct operating procedures during monthly evaluation; or Capt Rogers was unable to answer critical questions concerning the operation of his flight leading to an Operational Readiness Inspection rating of "Unsatisfactory" for his squadron.

1.9.3. Evaluators should discuss disagreements when preparing evaluations. Evaluators are first given an opportunity to change their rating/comment; however, they will not do so just to satisfy the disagreement. If, after discussion, the disagreement remains, the evaluator who non-concurs should limit the comments to the space provided but can attach an AF Form 77 if more space is required. The AF Form 77 will not be used to add additional performance information.

1.9.4. If the Forced Distributor/Unit Commander/Military or Civilian Director/Other Authorized Reviewer is junior in grade to the Rater/Additional Rater/Reviewer/Final Evaluator, they must discuss any non-concurrence with the Rater/Additional Rater/Reviewer/Final Evaluator prior to signing the evaluation.

1.10. Referral Evaluations.

1.10.2.2. Any evaluator whose ratings or comments causes an evaluation to become a referral evaluation must give the ratee the opportunity to comment on the evaluation. (T-1).

1.10.3. When to Refer a Performance Evaluation. Performance evaluations must be referred when:

1.10.3.1. Comments in any OPR, EPR, LOE, or TR (to include attachments), regardless of the ratings, that are derogatory in nature, imply or refer to behavior incompatible with or not meeting AF standards, and/or refer to disciplinary actions. (T-1). When considering the Airman's ability to meet standards, consider unacceptable performance as actions that are incompatible with, and/or Airmen who have *routinely* (a repeated inability to meet standards that would render the

aggregated performance assessment over the entire reporting period as below AF standards and expectations) and/or *significantly* (a single instance where failure to meet standards is either egregious in nature or so far short of a standard that it impacts overall aggregated performance assessment) failed to adhere to established AF standards and expectations.

1.10.4. Who Refers a Performance Evaluation?

1.10.4.1. Any evaluator whose rating(s) or comment(s) causes the evaluation to be a referral will refer the evaluation to the ratee. **(T-1)**.

1.10.4.2. If a previous evaluator did not refer an evaluation and a subsequent evaluator determines the evaluation should be referred, return the evaluation to the previous evaluator and discuss the rating/comment. The previous evaluator may change the rating/comment, or the subsequent evaluator may refer the evaluation. **(T-1)**.

1.10.4.3. If there is a disagreement as to whether or not to refer an evaluation, the additional evaluator may refer the evaluation.

1.12. General Prohibited Evaluator Considerations and Comments. Certain items are prohibited for consideration and will not be commented upon on any Officer Evaluation System/Enlisted Evaluation System form. Except as authorized in this instruction, do not consider, refer to, or include comments regarding:

1.12.1.6. Medical Information. Only authorized medical officials are in a position to make comments on medical conditions. Evaluators must focus evaluation comments on the *behavior* and *duty performance* of the individual. Comments pertaining to the medical condition, treatment, or diagnosis are prohibited.

1.12.4.4. Disciplinary Actions.

1.12.4.4.1. Must be reasonably specific, clearly outlining the event and/or behavior. Comments such as "conduct unbecoming" or "an error in judgment led to an off-duty incident" are too vague.

1.12.4.4.2. Advise ratees specifically on why they are considered substandard in order to avoid speculation and assist them in responding appropriately. (T-1).

1.12.4.4.3. An evaluation should not simply contain the comment that "MSgt Smith received an Article 15 during this period." Instead, the underlying conduct should be specifically cited with the resulting action included, such as: "During this reporting period, Lieutenant Jones sexually harassed a female subordinate for which he received an Article 15," or "MSgt Jones drove while under the influence, for which he received an Article 15."

1.12.4.4.4. In any case, the focus of the comment should be on the conduct or behavior. Evaluators should consult the servicing Staff Judge Advocate or local personnel advisors for questions regarding the appropriateness of including comments about misconduct and/or the resulting actions on a performance evaluation.

4.9. Completing Evaluations. The rater will evaluate how well the ratee performed during the rating period by completing this section of the AF Form 910/911/912; however, the additional evaluators will review evaluations to ensure ratings accurately describe performance and comments are compatible with/support the performance assessment rating. They must return

evaluations with unsupported statements for additional information or reconsideration of ratings (see paragraph 1.9 for disagreements); however, no evaluator may coerce another into changing their comments or ratings unless they are missing mandatory comments (paragraph 1.11), or the evaluation includes prohibited comments (paragraph 1.12). (T-1).

AIR FORCE EVALUATION

AFPC/DPMSPE recommends denying the application. The applicant is requesting the 22 March 2023 [sic] OPR be removed from his record due to the rater being coerced by her superiors to make the OPR a referral and there is no record of the LOA in the applicant's record. The applicant provided a signed non-referral OPR which was completed with the final signature on 27 May 2020. However, IAW AFI 36-2406 paragraph 1.4.3.1, evaluations are considered "working copies" until they are made a matter of record once they have been placed in the Automated Records Management System (ARMS) and Personnel Records Display Application (PRDA).

In June 2020 after the OPR was completed the FSS/CC presented the LOA to the rater and in turn the rater verified with the first sergeant the LOA was not in the officer's PIF. Two weeks after being presented with the LOA the FSS/CC met with the rater again and at the time provided the rater a referral OPR to give to the applicant. In the memorandum provided by the applicant's attorney paragraph 5e states "Ms. [redacted] felt coerced into signing the new OPR. She did not draft the new comments in this OPR." The applicant also contends there were multiple working copies of his 31 March 2023 OPR where the additional raters were different and IAW AFI 36-2406 paragraph 1.4.3.1., an evaluation is considered complete when all applicable signature elements are signed or completed. Completed evaluations become a matter of record once they are uploaded into ARMS and PRDA. Evaluations are considered "working copies" until they are made a matter of record. The incomplete evaluations the applicant provided were not complete with all the digital signatures; therefore, those OPRs were considered working copies. However, the applicant has failed to provide clear evidence leadership coerced the evaluator to change their rating. The applicant provided no statements from any of the evaluators. In the absence of statements from the evaluators on the evaluation, AFPC/DPMSPE can only assume they are unaware or do not agree. Therefore, the evaluation was accurately written at the time it was accomplished.

While reviewing the OPR in the officer's permanent record it was discovered it does need corrections in Section V, line 4 IAW AFI 36-2406 paragraph 1.3.5., only the President and Vice President of the United States may handwrite evaluations. Therefore, AFPC/DPMSPE recommends the AFBCMR approve an administrative correction to the OPR changing it from handwritten to typed.

The applicant has not provided substantiating documentation or evidence to prove the final OPR was rendered unfairly or unjustly. Air Force policy is an evaluation report is accurate as written when it becomes a matter of record. Additionally, it is considered to represent the rating chain's best judgment at the time it is rendered. Based on lack of corroborating evidence and the presumed legitimacy of the evaluator's overall documentation on the subject OPR, it is recommended no removal be made to the contested OPR. It is determined the OPR was accomplished in direct accordance with all applicable Air Force policies and procedures.

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 18 July 2024 for comment (Exhibit D), and counsel for the applicant replied on 15 August 2024. Counsel contends the advisory incorrectly states, the applicant is requesting his 22 March 2023 OPR be removed. The applicant is not requesting any action to his 2023 OPR, the appeal only concerns the referral 2020 OPR. The advisory opinion is incorrect and possibly mixed the opinion with another pending OPR appeal. The applicant's first "meets standards" OPR was submitted for ARMS/PRDA but was somehow pulled back while entering the record. It is unconfirmed how this happened but accounts from his CSS and serving MPF vary on how the report was kept from entering the record after it was officially submitted for the record and possibly placed into ARMS/PRDA.

The advisory incorrectly states, "...there were multiple working copies of his 31 March 2023 OPR where the additional raters were different and IAW AFI 36-2406 paragraph 1.4.3.1..." The applicant never provided or stated there were multiple copies of his 2023 OPR with different raters. There are no mistakes with his 2023 OPR and the appeal only concerns the referral 2020 OPR.

The advisory states, "The incomplete evaluations the applicant provided were not complete with all the digital signatures; therefore, those OPRs were considered working copies." The applicant never submitted incomplete evaluations. The two evaluations submitted were (1) the meets standards evaluation which was complete/signed and (2) the referral evaluation currently in his record is also completed/signed.

The advisory states, the applicant failed to provide clear evidence leadership coerced the evaluator to change their rating, and the applicant provided no statements from any of the evaluators. The applicant disagrees. The applicant submitted a letter directly from his rater/evaluator (Ms. Work-...). Further, the rater clearly stated she felt coerced into submitting the referral OPR. The applicant is unsure if the author of the advisory opinion failed to read the rater's letter or again, possibly the advisory opinion is mistaken and confused with another pending OPR appeal.

The advisory states the OPR in the applicant's record need corrections in Section V, line 4, IAW AFI 36-2406 paragraph 1.3.5., only the President and Vice President of the United States may handwrite evaluations. Therefore, it was recommended the AFBCMR approve an administrative correction to the OPR changing it from handwritten to typed. The applicant believes administrative correction in this case to be inappropriate. Such a change would serve only to usurp the regulation as written. Handwritten evaluations are strictly prohibited by anyone other than the President or Vice President. This OPR contains handwriting; therefore, it should be removed from the applicant's record.

Another error in the advisory is found in the OPR Recommendation section, which refers to the applicant in a female term (Her rating chain). Another reference of the applicant in a female term is under the Proposed Directive Language section which states "...and removed from her record."

The applicant provided many substantiating documents, including the first meets standards OPR and the rater's letter which is concrete information from his rating chain explaining why the OPR was rendered unfairly and unjustly. The rater had direct first-hand observation and could/did validate his claim along with many other sustaining documents.

Again, the advisory opinion makes many references to the evidence which are clearly in error. It references OPR's which are not at issue. It states there is no comment from the applicant's raters when the applicant included a signed memorandum directly from his rater. It refers to the applicant as a female. It contains incomplete sentences. It is clearly a mistake. It is clearly referring to another appeal - not the applicant. Therefore, the advisory opinion should be disregarded and the OPR at issue should be removed from the applicant's record.

The counsel's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.
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 the victim of an error or injustice. While the Board notes the recommendation of AFPC/DPMSPE against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. While AFPC/DPMSE states that the applicant provided no statements from any of the evaluators to support his claim, the applicant did in fact provide a memorandum, dated 29 July 2020 from his rater, who indicates that she felt coerced in signing the applicant's referral OPR and states that the comments she drafted were replaced with new comments she did not draft or complete. Furthermore, the rater states that she did not believe the rating was appropriate or accurate. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the AF Form 707, *Officer Performance Report (Lt thru Col)*, rendered for the period 23 March 2019 thru 22 March 2020, be removed from his record.

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-2024-01956 in Executive Session on 27 March 2025:

Work-Product Panel Chair

Work-Product Panel Member

Work-Product Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 30 May 2024.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSPE, dated 8 July 2024.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 18 July 2024.
- Exhibit E: Counsel's Response, w/atchs, dated 15 August 2024.

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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.

1/21/2026

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Board Operations Manager, AFBCMR

Signed by: USAF

AFBCMR Docket Number BC-2024-01956

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