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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:**

**DOCKET NUMBER:** BC-2024-03050

**COUNSEL:** [REDACTED]

**HEARING REQUESTED:** [REDACTED]

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**APPLICANT'S REQUEST**

1. His referral Enlisted Performance Report (EPR) rendered for the period of 2 Mar 09 – 1 Mar 10, be upgraded from a referral, removing the 23 Mar 10, Physical Training (PT) test failure.
2. The release of his 3 Mar 10 E-6 Weighted Airman Promotions System(WAPS) test scores or in the alternative, retroactive promotion to E-6.

**APPLICANT'S CONTENTIONS**

On 12 Apr 10, the commander signed his referral EPR, which had a closeout date of 1 Mar 10. Prior to this, his EPR was rated as a non-referral. The commander ordered his supervisor to wait until after his PT test on 23 Mar 10, to close his EPR, which was well past the closeout date. He failed the PT test on 23 Mar 10, resulting in the referral EPR. Up until that point, he had passed every PT test throughout his career. Additionally, he took the WAPS test for promotion to E-6 on 3 Mar 10. As a result of the referral EPR, he became ineligible for promotion, and the scores were not released.

The evaluation period for the EPR was from 2 Mar 09 to 1 Mar 10, and including the 23 Mar 10 PT test score inaccurately represented his performance during the reporting period. This inclusion also caused a promotional injustice, as he had already been approved for and tested for promotion to E-6, only to lose his promotion eligibility due to the referral EPR. Despite his protests at the time, he was strongly discouraged from appealing the EPR, as his supervisor and section leads improperly and unethically advised him the commander, being the ultimate authority on appeals, it would have been "waste his time." The decision to withhold the signing of his EPR to include a performance area outside of the rating period was both inaccurate and unjust. This situation reflects poorly on his commander, superiors, unit, and the United States Air Force, and should be corrected to accurately reflect his performance.

The Military Personnel Flight (MPF) does not retain PT test scores, and a request for records has not produced his previous PT test scores. He was informed via telephone the retention period for such records has expired and he was unable to obtain the scores. However, he does have copies of two DD Form 2766s, *Adult Preventative and Chronic Care Flow Sheet*, from that period, which were obtained from his medical records. These forms accurately reflect his PT test dates and his physical fitness ratings; however, PT re-tests are not reflected on the form. If the board is able to locate his PT test records, he would appreciate having them included in this appeal, as he knows they would reflect his prior statements and corroborating evidence.

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[REDACTED]

[REDACTED]



[REDACTED]

The applicant's complete submission is at Exhibit A.

## STATEMENT OF FACTS

The applicant is a former Air Force staff sergeant (E-5).

On 23 Sep 03, according to DD Form 4, *Enlistment/Reenlistment Document Armed Forces of the United States*, the applicant entered the RegAF. He was progressively promoted to E-5 effective 1 May 08.

The applicant was rendered the following referral EPRs:

- a. Referral EPR with a closeout date of 1 Mar 10 (referral EPR memorandum dated 26 Mar 10).
- b. Referral EPR with a closeout date of 7 Jan 11 (referral EPR memorandum dated 27 Jan 11), applicant responded to referral EPR memorandum on 31 Jan 11.
- c. Referral EPR with a closeout date of 7 Jan 12 (referral EPR memorandum dated 11 Jan 12).
- d. Referral EPR with a closeout date of 7 Jan 14 (referral EPR memorandum dated 18 Feb 14).

On 3 Mar 14, the applicant signed declining to take the Specialty Knowledge Test and/or the Promotion Fitness Examination. He acknowledged he understood refusal to take either test made him ineligible for promotion consideration for the 14E6 testing cycle.

On 28 Aug 14, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was medically retired from the Air Force. He was credited with 10 years, 11 months and 6 days of active service.

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/DPMSPE (Evaluations ) recommends denying the applicant's request to remove his 1 Mar 10 referral EPR based on insufficient corroborating evidence provided by the applicant and the presumed legitimacy of the original crafting of the EPR. The application was not submitted in a timely manner. The applicant did not file an appeal through the Evaluation Report Appeals Board under the provisions of AFI 36-2406, *Correcting Officer and Enlisted Evaluation Reports*, due to his permanently disability retirement from Active Duty on 28 Aug 14. However, it is worthy to note the contested EPR has been a matter of record for almost 15 years. The test to be applied is not merely whether the applicant discovered the error within three years, but whether through due diligence, he could or should have discovered the error. The applicant unreasonably and inexcusably delayed asserting this claim. He has waited 14 years to file this appeal and states his delay in appealing the EPR was due to being improperly and unethically informed by his supervisor and section heads; because the commander was the ultimate authority on the appeal and

[REDACTED]

would have been "wasting his time.". As a result of this delay, memories have either faded or are not available, and these factors seriously complicate any ability to determine the merits of the applicant's request. In short, the Air Force asserts the applicant's unreasonable delay regarding a matter dating back 15 years has greatly complicated its ability to determine the factual merits of the applicant's position. Therefore, they see no valid reason to waive the statute of limitations and consider the applicant's request without merit.

Furthermore, IAW 36-2406, paragraph A2.4. Time Limit Waivers. The applicant can request a waiver of the 3-year time limit by citing unusual circumstances that prevented filing the appeal in a timely manner. However, ratees are responsible for reviewing their records at least annually for accuracy and the board should consider the due diligence of the applicant to apply for correction. Applications that do not include a waiver will be returned without action. Grounds for a waiver do not include failing to understand the appeals process; being discouraged from appealing by superiors, peers, or counselors; failing to understand how serious an impact an evaluation could have on your career in later years; not reviewing your records during the intervening years. The applicant has not provided a convincing circumstance that would have prevented him from submitting the application in a timely manner and although the Air Force Board for Correction of Military Records (AFBCMR) is not governed by AFI-36-2406, they would recommend the denial based on timeliness alone and urge the AFBCMR to come to the same conclusion.

The applicant states his referral evaluation is invalid due to his rater documenting a failed fitness test that took place after the close out date of the EPR. The applicant contends his commander ordered his rater to wait until after his PT test on 23 Mar 10 to close out his EPR with a close out date of 1 Mar 10. Based on the applicant's submission of his DD Form 2766 it does show the applicant did fail his PT test on 23 Mar 10; however, the applicant failed to address two items. First, the referral memorandum from the rater states this was his second fitness failure and on his DD Form 2766, it appears the applicant may have also been non-current. His last PT test shows it was on 9 Jan 09 and his failure was not until 23 Mar 10 making the applicant non-concurrent as of the close out date of his EPR. Furthermore, the applicant was given the opportunity to provide comments to the referral EPR which he acknowledged on 26 Mar 10. AFI 36-2406 also states the ratee can go to their servicing MPF to receive guidance in preparing the rebuttal or have another individual prepare their response on their behalf (such as an attorney). However, the applicant failed to provide any comments to the referral reviewer to contest the injustice.

In summary, the applicant has not provided substantiating documentation or evidence to prove the final EPR was rendered unfairly or unjustly. Air Force policy is that 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. To effectively challenge an evaluation, it is necessary to hear from all members of the rating chain, not only for support but, also for clarification/explanation. Statements from the evaluators during the contested period are conspicuously absent. The applicant has failed to provide the necessary information/support from the original additional rater and commander on the contested EPR. Without the benefit of these statements, they can only conclude the EPR is accurate as written. It is determined the EPR was accomplished in direct accordance with all applicable Air Force policies and procedures. They contend once a report is accepted for file, only strong evidence to the contrary warrants' correction or removal from an individual's record. The burden of proof is on the applicant. The applicant has not substantiated the contested EPR was not rendered in good faith by all evaluators based on the knowledge available at the time.

The complete advisory opinion is at Exhibit C.

[REDACTED]

**AFPC/DPMSPP** (Enlisted Promotions) recommends denying the applicant's request to have his 3 Mar 10 E-6 WAPS test scores released or retroactive promotion to E-6 due to unjust shredding of his WAPS test scores. The applicant was medically retired from the Air Force on 28 Aug 14, in the rank of staff sergeant. He was declared unfit by the SecAF, due to a physical disability. Currently in the Military Personnel Data System (MiLPDS), the applicant's promotion status is listed as ineligible for promotion.

A memorandum to the applicant from his commander, dated 26 Mar 10, verified the applicant acknowledged being aware of receiving a referral report potentially affecting his eligibility for other personnel related actions (i.e. assignments, promotion, etc.). The applicant was informed to consult the first sergeant, commander, and/or MPF if more information was needed concerning this matter. The memorandum also stated, if the applicant believed the report was inaccurate, unjust, or unfairly prejudicial to his career, he could apply for a review of the report under AFI 36-2401, *Correction of Officer and Enlisted Reports*.

The AFPC USAF/USSF WAPS Systems Manager was unable to find the applicant's test responses because he was ineligible for the 10E6 testing cycle due to a referral EPR that closed out 1 Mar 10. He reviewed subsequent promotion cycles to determine if he had been considered and had any tests on file, but he remained ineligible for each cycle until his separation on 28 Aug 14. They were unable to do an apply-back since he did not have any tests on file.

According to the AFPC USAF/USSF WAPS Systems Manager, the applicant was ineligible for the following promotion cycles:

- a. 10E6: Referral EPR with a closeout date of 1 Mar 10.
- b. 11E6: Referral EPR with a closeout date of 7 Jan 11.
- c. 12E6: Referral EPR with a closeout date of 7 Jan 12.
- d. 13E6: Referral EPR, but a non-referral EPR with a closeout date of 7 Jan 13. The - Personnel Evaluation System Code R (referral) likely was not removed by the servicing MPF as it should have been, which kept him eligible. However, no supplemental request was made in Case Management System, and the member likely did not review his Data Verification Record or take corrective actions.
- e. 14E6: Referral EPR with a closeout date of 7 Jan 14, and the applicant declined to test on 3 Mar 14 per AF Form 1566 *WAPS Test Verification*.

In accordance with AFI 36-2502, *Airman Demotion Promotion Programs*, dated 31 Dec 09, Table 1.1, Item 22, regarding determining ineligibility for promotion, Airmen in grades SrA through SSgt with a referral report (as defined by AFI 36-2406, *Officer and Enlisted Evaluation Systems*) or an overall rating of "2" on their top enlisted performance report are ineligible for promotion. Note 6 specifies Airmen in grades SrA through SMSgt can regain eligibility for future promotion cycles only after receiving a report with an overall rating of "3" or higher that is not a referral, and it must close out on or before the next promotion eligibility cutoff date, if otherwise eligible. Reinstatement is not authorized.

[REDACTED]

The AFPC WAPS Systems Manager, was unable to verify the applicant receiving a promotion line number for the 10E6 promotion cycle, and there is no evidence of the applicant's leadership recommending a supplemental review for promotion to E-6.

Based on the documentation provided and analysis of the facts, there is no evidence of an error or injustice. Their office is unable to recommend promotion to E-6 due to the applicant having several EPR referrals and no promotion line number being verified in the promotion systems. There is no official documentation located nor provided that verifies the applicant being entitled to a retroactive promotion to E-6.

The complete advisory opinions are at Exhibit D.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 6 Feb 25 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).
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 recommendation of AFPC/DPMSPE and AFPC/DPMSPP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes the applicant did not provide any evidence nor was there any evidence in his record that confirms an error or injustice exist. In view of the foregoing and in the absence of persuasive evidence to the contrary, the Board is not compelled to recommend actions for correcting the record to upgrade his EPR from a referral report by removing the 23 March 2010, physical training test failure as well as release the test scores of his 3 March 2010 E-6 Weighted Airman Promotions System test scores or in the alternative he receive a retroactive promotion to the grade of E-6. 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-2024-03050 in Executive Session on 30 May 25:

[REDACTED]

[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 26 Aug 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSPE, dated 14 Jan 25.
- Exhibit D: Advisory Opinion, AFPC/DPMSPP, dated 4 Feb 25.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 6 Feb 25.

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.

10/24/2025

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[REDACTED]  
Associate Director, AFBCMR  
Signed by: USAF