



Work-Product

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

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### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-04268

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

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### APPLICANT'S REQUEST

His referral Officer Promotion Brief (OPB) for the period ending 31 May 23 be removed from his records.

### APPLICANT'S CONTENTIONS

The referral OPB asserts his operations group commander (OG/CC) at the time relieved him from command and issued him a letter of reprimand (LOR). Since neither are in his records, the OPB is factually incorrect and must be removed from his records. The OPB was signed by his previous leadership on 20 Feb 24 for the period 4 Jan 22 through 31 May 23.

His appeals to his previous leadership and attempts to use the Evaluation Reports Appeal Board (ERAB) have been exhausted and he now appeals to the AFBCMR. His previous unit has not explained the reasons why these items are missing from his records.

He previously appealed to the Board to correct the overreach, abuse of authority and violation of 10 U.S.C. § 1034. This case is focused on correcting the OPB which is not corroborated by the documents in his records. He should not be penalized by his leadership who failed to properly follow procedures.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a currently serving Air Force lieutenant colonel (O-5).

SAF/IG provided the Commander Directed Report of Investigation (ROI) Concerning Dereliction of Duty and Misuse of Government Resources, dated 7 Feb 23. The following two allegations were substantiated:

Allegation 1: The applicant, who knew or should have known of his duties, at or near **Work-Prod...** AB, between 11 May 22 and 12 Oct 22, was derelict in the performance of those duties in that he negligently failed to comply with the Joint Travel Regulation (JTR) and Defense Travel System (DTS), as it was his duty to do by directing nonofficial dependent travel to Japan using DTS generated orders. **(SUBSTANTIATED)**.

Allegation 2: Members of the squadron did, at or near **Work-Prod...** AB between 11 May 22 and 12 Oct 22, misuse government resources for private gain by allowing dependent members to utilize

government vehicles and contingency dormitories for nonofficial purposes, in violation of 5 CFR 2635.704 and Section 2-301(b) of the Joint Ethics Regulation. **(SUBSTANTIATED)**.

On 20 Feb 23, the applicant was notified his OG/CC decided to relieve him of command for cause and the removal would be filed in his Officer Selection Record (OSR) in accordance with DAFI 36-2907, *Adverse Administrative Actions*.

On 17 Apr 23, the AF/A1 approved his commander's request to remove the applicant from Developmental Education (DE) designation. The removal from DE was filed in the applicant's OSR in accordance with DAFI 36-2670, *Total Force Development*.

On 21 Apr 23, the applicant received an LOR. An investigation disclosed he used official resources to enable leisure travel under the Status of Forces Agreement (SOFA). The manipulation of DTS was not supported and violated the JTR.

The applicant received a referral OPB for the period 4 Jun 22 through 31 May 23. The reason for the referral OPB was he did not meet all command climate requirements. He was relieved from command for cause after the OG/CC lost confidence in his judgment and command temperament. The applicant also received an LOR for misuse of unit resources. The designated rater included comment, "Rater retired without documenting the required annual OPB."

The applicant's counsel provided a response to the OPB. He stated the derogatory comments were not characteristic of the applicant's long sustained performance and should be given little weight in considering him for promotion or assignment. He was under the clear and understandable impression that the leadership was fully on board with his innovative plan to allow family members to travel. The complaints originated with personnel who had a history of poor relationships with the applicant and were motivated to cause him trouble with his leadership. The OPB was finalized on 20 Feb 24.

On 8 Feb 24 and 8 Mar 24, the Board (BC-2023-02148) denied the applicant's request his 20 Feb 23 relief from command for cause be changed to without cause, his LOR dated 21 Apr 23, be removed from his records, he be awarded a permanent change of station (PCS) decoration and he be reconsidered for DE. The applicant contended he was the victim of reprisal in violation of 10 U.S.C. § 1034. However, the Board found no evidence the applicant was reprised against in violation of 10 U.S.C. § 1034 or that the two allegations in the CDI were substantiated contrary to the evidence. In view of the totality of the evidence, the Board concluded the actions of his commanders were supported by the evidence.

At the time the Board considered his prior case (BC-2023-02148) on 8 Feb 24 and 8 Mar 24, the applicant's records did not include the LOR dated 21 Apr 23, the relief of command memorandum dated 20 Feb 23, or the referral OPB for the period ending 31 May 23. However, the applicant's Automated Records Management System (ARMS) record now includes the adverse actions.

On 18 Jul 24, the ERAB informed the applicant his request for his referral OPB to be replaced was returned without action. In accordance with AFI 36-2406, *Officer and Enlisted Evaluation Systems*, requests for substitution of an evaluation report require information from the rating chain and all evaluators must agree with the changes. Additionally, requests for void of an evaluation must include evidence that demonstrates an error or injustice was made.

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

## APPLICABLE AUTHORITY/GUIDANCE

Per 10 U.S.C. § 615(a)(3), DoDI 1320.14, *DoD Commissioned Officer Promotion Program Procedures*, Department of the Air Force Policy Memorandum (DAFPM) 2021-36-03, *Adverse Information for Total Force Officer Selection Boards*, dated 14 Jan 21. Department of the Air Force (DAFI) 36-2907, *Adverse Administrative Actions* and DAFI 36-2501, *Officer Promotions and Selective Continuation*, paragraph A14.2.1. All adverse information an officer receives will be filed in the OSR and be considered by promotion selection, special selection, and selective continuation boards to the grade of O-4 and above (to include processes for O-3 promotions that have "extraordinary adverse information"). Adverse information is any substantiated finding or conclusion from an officially documented investigation or inquiry or any other credible information of an adverse nature. To be adverse, the information must be derogatory, unfavorable or of a nature that reflects unacceptable conduct, integrity or judgement on the part of the individual. Adverse information includes but is not limited to any substantiated finding or conclusion from an investigation or inquiry, regardless of whether command action was taken, court-martial findings of guilt, nonjudicial punishment (NJP) pursuant to Article 15, LOR, letter of admonishment, relief of command for cause, removal from developmental education for cause, and letter of counseling. All adverse information as defined will be permanently placed in the record. Except for set aside of a court-martial or NJP action, removal of adverse information from the records may only be directed by an AFBCMR recommendation.

AFI 36-2406, *Officer and Enlisted Evaluations*, paragraph 1.11.5.3.2. Must limit comments, including any pertinent attachments to a total of 10 single sided pages or 5 double sided pages. All pertinent attachments become part of the evaluation filed in the personnel record.

## AIR FORCE EVALUATION

AFPC/DPMSPE (Military Evaluations) recommends denial for removal of the referral OPB. The applicant contends the LOR dated 21 Apr 23, and the Notice of Relief of Command dated 20 Feb 23, are not in his official OSR; therefore, the applicant believes his referral OPB should be voided from his record. However, the ARMS shows both the LOR and Notice of Relief of Command were filed in his records on 15 Jan 25.

The applicant provides an unsigned letter from his rater and higher level reviewer; however, due to the memorandum being unsigned, they cannot verify if they support having the OPB removed. Only the evaluators know how much an incident influenced the report. The applicant provided no evidence in his case to show that the referral comment on the OPB was inaccurate or unjust; therefore, the inclusion of the referral comment on the OPB was appropriate and within the evaluator's authority to document on the OPB given the incident.

The applicant has not provided compelling evidence to substantiate the contested report was unjust or inaccurate. The applicant also did not provide factual, specific and concrete information from his rating chain officials who would have had direct firsthand observation and could have validated the applicant's claim. It is determined the OPB was accomplished in accordance with applicable Air Force policies and procedures. 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. He has not substantiated the contested OPB was not rendered in good faith by all evaluators based on the knowledge available at the time.

The complete advisory opinion is at Exhibit E.

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

The Board sent a copy of the advisory opinion to the applicant on 25 Mar 25 for comment (Exhibit F), and the applicant replied on 9 Apr 25. In his response, he contends the OPB was not accomplished in accordance with policies and regulations as the advisory opinion claims. The derogatory information was not in his records at the time he filed his AFBCMR application on 29 Jul 24. The OPB was placed in his records nearly a year after its close out date and the derogatory information was placed in his records on 15 Jan 25, nearly two years after the events took place. It is unclear why the advisory opinion does not mention why the OPB was not placed in his records 60 days after closeout in accordance with AFI 36-2406. The documents were intentionally placed in his records late in order to remove available time and due process prior to his in the promotion zone (IPZ) colonel (O-6) promotion board, which met in Mar 25. It is impossible with the current methods for any administrative redress.

The intentional manipulation of his records supports this claim. When the derogatory documents finally appeared in his records nearly two years after the fact, his previous chain of command failed to provide him any written response in accordance with DAFI 36-2907. Further, his response included multiple character statements and his response should have been presented to his promotion board. This proves his chain of command intentionally did not include his response to hurt his career and destroy his chances for promotion.

Further, his actual reviewers for the OPB did not write or sign his OPB. The statement by a replacement rater corroborates this fact and appears in the OPB itself. The advisory opinion mentions that only evaluators can know how much an incident influenced the report. If this is true, then the OPB in question was written and signed by personnel who were not in his rating chain, had no authority, experience or knowledge of the incident or the statements in his OPB.

"Shady" does not begin to describe the actions taken by his previous chain of command. The addition of derogatory information into his records two years after the fact and just before his IPZ board to O-6 gives the impression his previous chain of command intentionally attempted to cover their mistakes and destroy his reputation and career by removing any potential administrative remedies to rebut these documents. He filed an IG complaint; however, his complaint was denied because both his previous rater and higher level reviewer had retired. It does not make sense that his previous chain of command can retire and be protected from an investigation but the OPB containing adverse information is allowed to stand even when they did not write it. There is an extreme appearance of impropriety. He asks the Board to reach beyond its traditional deference to commanders and overturn the administrative actions. He took the blame for an unpopular action that was originally supported and approved.

The applicant's complete response is at Exhibit G.

## **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 AFPC/DPMSPE and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant contends there was an intentional manipulation of his records resulting in the adverse actions being placed in his records on 15 Jan 25, almost two years after the LOR was issued on 21 Apr 23. He further contends his referral OPB was not completed in accordance with AFI 36-2406. The Board does not know why the adverse actions (LOR, relief of command and referral OPB) were not placed in his records in a timely manner. However, the Board finds it likely that the adverse actions may have been filed in his records prior to the convening of his promotion board after it was discovered the adverse actions were not properly filed in his records as required. In this respect, the Board notes DAFI 36-2501 states all adverse information an officer receives will be considered by promotion boards to the grade of O-4 and above. Regardless of the reason for the late placement into his records, the Board notes the adverse actions are required to be filed in the applicant's records per 10 U.S.C. § 615(a)(3), DoDI 1320.14, DAFPM 2021-36-03, DAFI 36-2907 and DAFI 36-2501. The Board also does not know why his rater did not complete the OPB prior to his retirement as required, which resulted in a delay in the completion of the OPB. However, the applicant provided insufficient evidence to indicate his referral OPB was completed contrary to Air Force regulations. The referral comments in the OPB are supported by the evidence, which includes the substantiated allegations in the CDI ROI dated 7 Feb 23, the LOR dated 21 Apr 23, and the relief of command memorandum dated 20 Feb 23. Furthermore, the applicant was provided the opportunity to provide a response and acknowledged the OPB on 22 Feb 24 as required by AFI 36-2406. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

## 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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-04268 in Executive Session on 30 May 25:

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 17 Dec 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.

**AFBCMR Docket Number BC-2024-04268**

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

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Exhibit C: SAF/IG ROI, dated 7 Feb 23 (WITHDRAWN).  
Exhibit D: Record of Proceedings, BC-2023-02148, dated 17 May 24.  
Exhibit E: Advisory Opinion, AFPC/DPMSPE, dated 24 Mar 25.  
Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 25 Mar 25.  
Exhibit G: Applicant's Response, w/atchs, dated 9 Apr 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.

6/13/2025

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Board Operations Manager, AFBCMR  
Signed by: USAF

**AFBCMR Docket Number BC-2024-04268**

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