

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2011-04636
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His Article 15 received on 4 February 2011, be set aside and his rank to staff sergeant (E-5) be restored.

APPLICANT CONTENDS THAT:

The punishment of reduction in rank was too severe since he had no previous infractions. He does not make any excuses for his actions that led to his receipt of an Article 15, but will use it as a learning experience for himself and future airmen.

In support of his appeal, the applicant provides a personal statement, several character references, and a copy of his Article 15.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving on active duty in the Regular Air Force in the grade of senior airman (E-4). In January 2011, the applicant stated to his supervisor that the Child Development Center had called him and told him that his daughter was sick and had to be taken home. However, this statement was false, and in fact, the applicant left his place of duty to go to the Enlisted Club to gamble. As a result, on 31 January 2011, the applicant's commander offered the applicant, then a staff sergeant, an Article 15. He was charged with making a false official statement to his supervisor, in violation of Article 107, Uniform Code of Military Justice (UCMJ). After consulting with his assigned military defense counsel, the applicant accepted nonjudicial punishment proceedings and waived his right to demand a trial by court-martial. He presented written matters to and made a personal appearance before the commander. On 4 February 2011, the commander decided the applicant committed the alleged offense and impose punishment consisting of reduction to the grade of senior airman and a reprimand. The applicant declined

to appeal the Article 15 or the punishment. A legal review of the Article 15 determined it was legally sufficient. The applicant also received a referral Enlisted Performance Report (EPR) for the period 21 August 2010 - 11 February 2011.

AIR FORCE EVALUATION:

AFLOA/JAJM recommends denial. JAJM states the applicant has not provided sufficient basis to warrant a set aside of his Article 15. He has not raised any genuine doubt as to his guilt of the offense for which he was punished or established any error or injustice in the Article 15 action such that a set aside would be in the best interests of the Air Force. It is JAJM's opinion that the Board should also not grant the applicant's request to be restored to the rank of staff sergeant. The crux of the applicant's argument is that he admits he committed the offense, but that reduction in rank was too severe as punishment for the offense. In support of this contention, he provides several character references and a personal statement in which he takes full responsibility for the actions and states he has learned an important lesson. At the time the Article 15 was offered, the applicant had an opportunity to address his commander and present similar reference letters. The commander was in the best position to evaluate the offense, the applicant's responses, and the effect that the offense would have on good order and discipline in the unit. The applicant's case is not strong enough to outweigh the deference that should be given to the commander who was there at the time of the offense.

The complete JAJM evaluation is at Exhibit C.

AFPC/DPSOE states that JAJM found no error or injustice; therefore, they defer to their recommendation. DPSOE indicates that based on the applicant's date of rank (DOR) to senior airman of 4 February 2011, he will be eligible for promotion consideration to staff sergeant during cycle 12E5, provided he has a non-referral EPR with a close-out date on or before 31 March 2012. Should the Board decide to remove the Article 15 and restore the applicant's rank to staff sergeant with his original DOR of 1 December 2008, he will not be eligible for promotion consideration to technical sergeant (E-6) until cycle 13E6 due to the referral EPR.

The complete DPSOE evaluation is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 6 March 2012, for review and comment within 30 days (Exhibit E). As of this date, this office has received no response.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was timely filed.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of an error or an injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinions and recommendations of the Air Force offices of primary responsibility and adopt their rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered AFBCMR Docket Number BC-2011-04636 in Executive Session on 17 July 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered in connection with AFBCMR Docket Number BC-2011-04636:

- Exhibit A. DD Form 149, dated 18 Nov 11, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFLOA/JAJM, dated 12 Jan 12.
- Exhibit D. Letter, AFPC/DPSOE, dated 30 Jan 12.
- Exhibit E. Letter, SAF/MRBR, dated 6 Mar 12.

Panel Chair