

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00240

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

1. His fitness assessments dated 29 December 2010, 9 March 2011, and 16 August 2011 be removed from the Air Force Fitness Management System (AFFMS).
2. His enlisted performance reports (EPR) with the close-out dates of 13 March 2009 and 13 March 2011 be voided and removed from his records.

APPLICANT CONTENDS THAT:

AFI 36-2905, *Fitness Program*, dated 1 July 2010, gives medical doctors the authority to exempt him from all portions of the fitness assessment. He submitted a letter from his current primary care manager (PCM) stating his last three assessments should be removed. He has had heart and back problems since 2007 and has not been released to perform physical training. The referral EPRs have hindered him from testing for the rank of master sergeant. He would like to test and have his records corrected prior to retiring.

In support of the request, the applicant provides the contested EPRs, AFFMS print-out, excerpt from AFI 36-2905, doctor's notes, AF Form 469, *Duty Limiting Condition Report* and AF Form 422, *Notification of Air Force Members Qualifications Status*.

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

STATEMENT OF FACTS:

The applicant is a member of the Regular Air Force with an approved retirement date of 1 November 2012.

AIR FORCE EVALUATION:

AFPC/DPSIM recommends denial. On 14 October 2010, the applicant was placed on an AF Form 422 exempting the cardio, push-up, and sit-up components of the fitness assessment. He was cleared for the abdominal circumference (AC) component. These exemptions were effective 16 September 2010 through 31 March 2011. The applicant was placed on another AF Form 422 exempting him from all components of the fitness assessment. That exemption began on 20 December 2011 and expired on 7 June 2012.

On 29 December 2010, his AC measured 40" resulting in an unsatisfactory. On 9 March 2011, his AC measured 39.50" resulting in an unsatisfactory. On 29 December 2011, his AC measured 40" resulting in an unsatisfactory.

The applicant's fitness assessments were administered based on the recommendation of his PCM.

The complete DPSIM recommendation, with attachments, is at Exhibit C.

AFPC/DPSID recommends denial. A review of the applicant's AF Form 422 indicates he was exempt from the sit-up, push-up and cardiovascular components of the fitness assessment. He was not exempted from the abdominal circumference. He provided a letter from his PCM stating that his current and prior medical conditions prevented him from successfully passing the fitness assessments. However, the diagnosis is contrary to the competent medical authorities who diagnosed him at the time and made no such diagnosis.

DPSIM provided an advisory stating the PCM did not exempt the applicant from the AC component and that was the reason for his failures. They recommend the contested fitness assessments remain in AFFMS. Based on that recommendation, the referral fitness comments as well as the "Does Not Meet" marking in section III, Block 3 of the performance report are valid and in accordance with applicable Air Force policies and procedures.

An evaluation is considered to represent the rating chains best judgment at the time it is rendered. Once a report is accepted for filing, only strong evidence to the contrary warrants correction or removal from an individual's record. The applicant has not substantiated the contested reports were not rendered in good faith by all evaluators based on knowledge available at the time.

The complete DPSID evaluation is at Exhibit D.

AFPC/DPSOE provides the following for informational purposes only. The first time the contested report would have been considered in the promotion process was cycle 10E7. However, the referral EPR for the period of 14 March 2008 through

13 March 2009 rendered him ineligible for promotion consideration. Although the next EPR rendered for the period of 14 March 2009 through 13 March 2011 was not a referral, the applicant remained ineligible for promotion consideration for cycle 11E7 since he received a referral report for the period 14 March 2010 through 13 March 2011.

Should the Board grant the applicant's request and remove the referral EPRs, he would be entitled to supplemental consideration beginning with cycle 10E7, once tested.

The complete DPSOE evaluation is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 17 July 2102, for review and comment within 30 days (Exhibit F). 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 injustice. After a thorough review of the evidence presented, we are not persuaded that the fitness assessments or the contested reports are erroneous or unjust as recorded. Therefore, we agree with the opinions and recommendations of the Air Force offices of responsibility and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. In the absence of persuasive evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

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-2012-00240 in Executive Session on 25 October 2012 under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 4 Jan 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIM, dated 4 Apr 12, w/atchs.
- Exhibit D. Letter, AFPC/DPSID, dated 21 May 12.
- Exhibit E. Letter, AFPC/DPSOE, dated 2 Jul 12.
- Exhibit F. Letter, SAF/MRBR, dated 17 Jul 12.

Panel Chair