

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00540

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

The AF Form 911, *Enlisted Performance Report* (EPR), rendered for the period of 2 Apr 10 through 26 Oct 10, be declared void and removed from his records.

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APPLICANT CONTENDS THAT:

The referral report he received was unjustly rendered as a "3" in violation of numerous requirements of Air Force Instruction (AFI) 36-2406, *Officer and Enlisted Evaluation Systems*.

1. He should have received an annual report instead of a Change of Rating Official (CRO) report as he was preparing for a 365-day TDY assignment. The reporting instructions for the TDY stated a CRO was not required.

2. The contested report should not have been a referral report. Had the report not been rendered as a CRO, it would not have been a referral because he would have had a chance to attain a passing fitness assessment (FA) score under the 91-day rule as set forth in AFI 36-2905, *Fitness Program*.

3. He was not given a fair opportunity to overcome his deficiencies because of the excessive time it took to process his report in violation of AFI 36-2406.

4. The feedback date indicated is false as he did not receive feedback during the rating period.

5. He failed the FA due to complications from injuries he received as a result of an automobile accident. His pre-TDY training aggravated his injuries which led to his FA failure.

In support of his appeal, the applicant provides copies of the contested EPR, the accompanying letter of notification, his rebuttal thereto, pertinent email traffic, his appeal to the Evaluation Reports Appeal Board (ERAB), and a subsequent EPR.

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

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STATEMENT OF FACTS:

The applicant began his military service in Sep 89. He is currently serving in the Regular Air Force. Additional relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letters prepared by the appropriate offices of the Air Force at Exhibits C, D, and E.

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AIR FORCE EVALUATIONS:

AFPC/DPSIM recommends denial of the applicant's request to remove his 21 Oct 11 FA score. The applicant was correctly administered his fitness assessment in accordance with Air Force Instruction 36-2905, *Fitness Program*. The applicant had no AF IMT 422, *Physical Profile*, on file at the time of his FA, nor was there any indication he was experiencing any medical issues. He failed the FA due to not meeting the minimum requirement for the abdominal circumference component of the FA.

A complete copy of the AFPC/DPSIM evaluation is at Exhibit C.

AFPC/DPSID recommends denial of the applicant's request to remove the contested EPR from his records, indicating there is no evidence of an error or injustice.

1. While he argues he should have received an annual report instead of a CRO report due to his pending 365-day TDY assignment, Personnel Services Delivery Memorandum (PSDM) 08-47, *Extended Deployments*, indicates that a CRO report will be generated if there has been at least 120 days supervision prior to departure. An annual report will be generated if at least 60 days of supervision has transpired and at least one year has passed since the last report. Other than not preparing a timely report, a CRO was clearly justified and properly accomplished.

2. As for his argument that the 91-day rule would have prevented the report from being a referral, as stated above, a CRO report was appropriately generated and appropriately referred to the applicant because he failed his FA three days prior to the close-out of the report. Therefore, the referral EPR is considered to be valid, accurate, and in accordance with applicable Air Force policy and procedures.

3. As for his argument the reporting instructions for his deployment indicated that a CRO was not required, the applicant has not provided any evidence to support his assertion.

4. Regarding his attempt to use the lateness of his report as a reason for voiding the report, the applicant's follow-on report was a fire-wall 5 EPR with no fitness failure noted. Therefore, his argument that he did not have enough time to overcome any deficiencies listed on his referral report is without merit.

5. As for his assertion that he did not receive feedback during the reporting period, the applicant has not provided any evidence the date of feedback is incorrect. Therefore, in the absence of such evidence, the presumption is that feedback did occur on the date indicated.

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

A complete copy of the AFPC/DPSID evaluation is at Exhibit D.

AFPC/DPSOE addresses the applicant's promotion potential contingent upon the decision of the Board. A referral report is an ineligibility condition for promotion in accordance with AFI 36-2502; however, the applicant received a nonreferral EPR for the period 27 Oct 10 - 23 Sep 11, rendering him eligible for promotion consideration to the grade of senior master sergeant (SMSgt / E-8), for cycle 12E8. Unfortunately, the nonreferral EPR was not entered into the system in time for his record to meet the Central SMSgt Evaluation Board which convened on 30 Jan 12. Since he tested out-of-cycle for 12E8 on 11 Apr 12, he will be required to administratively request supplemental consideration for cycle 12E8 through his servicing MPS.

A complete copy of the AFPC/DPSOE evaluation is at Exhibit E.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 11 May 12 for review and comment within 30 days (Exhibit F). As of this date, no response has been received by this office.

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

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The following members of the Board considered AFBCMR Docket Number BC-2012-00540 in Executive Session on 19 Jul 12, under the provisions of AFI 36-2603:

Chair  
Member  
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 25 Jan 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIM, dated 24 Feb 12, w/atch.
- Exhibit D. Letter, AFPC/DPSID, dated 9 Apr 12.
- Exhibit E. Letter, AFPC/DPSOE, dated 23 Apr 12.
- Exhibit F. Letter, SAF/MRBR, dated 11 May 12.

Chair