

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00935
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His AF Form 910, *Enlisted Performance Report (EPR) (AB thru TSgt)*, rendered for the period 3 Jul 10 through 2 Jul 11 be declared void and removed from his records.

APPLICANT CONTENDS THAT:

1. He received a letter of counseling (LOC) and a letter of reprimand (LOR) for financial irresponsibility despite having provided letters stating he was unaware of his spouse's actions.
2. He was unduly punished by his first sergeant for actions that "he got away with" during a previous assignment in which the first sergeant was his supervisor.
3. He received a LOC for missing an appointment, not for being late.

In support of his request, the applicant provides copies of the contested EPR, AF IMTs 1168, *Statement of Suspect/Witness/Complainant*, LOR, LOC and other documentation associated with his request.

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

STATEMENT OF FACTS:

The applicant is currently serving on active duty in the grade of technical sergeant (TSgt).

On 12 Apr 11, the applicant was counseled for maintaining insufficient funds at the Air Force Federal Credit Union.

On 8 Jun 11, the applicant received a LOC for failure to go to a mandatory appointment.

On 27 Jun 11, the applicant received a LOR for financial irresponsibility.

On 4 Aug 11, the applicant received a referral EPR for multiple incidents of financial irresponsibility and a separate incident of failure to go.

The applicant did not file an appeal through the Evaluation Report Appeals Board (ERAB) under the provisions of AFI 36-2401, *Correcting Officer and Enlisted Evaluation Reports*.

The remaining relevant facts pertaining to this application are contained in the letters prepared by the appropriate offices of the Air Force, which are attached at Exhibit B and C.

AIR FORCE EVALUATION:

AFPC/DPSID recommends denial. DPSID states evaluators are strongly encouraged to comment in performance reports on misconduct that reflects a disregard of the law, whether civil law or the Uniform Code of Military Justice, or when adverse actions such as Article 15, LOR, Admonishment, Counseling, or placement on the Control Roster have been taken. In this case, the applicant's rating chain did choose to comment, which caused the report to be referred.

The applicant did not provide any evidence that would substantiate his assertions of unfair or overly harsh treatment by his rating chain. To prove any allegation of unfair or overly harsh treatment, the applicant would need to provide the results of an independent Inspector General, Commander Directed Investigation or other official investigation finding germane to his appeal, which are considered credible sources. The applicant provides none of this documentation in his appeal, and although declaring in his referral EPR rebuttal that he fully accepts responsibility for his actions, he uses much of the rebuttal itself to chastise his spouse for her role in the incidents of financial irresponsibility, and conveniently minimizes any role he might have played in the misconduct.

While one can sympathize with the applicant's experience thru a trying personal ordeal, the fact remains that he received all administrative actions for actions which were under his control, and ultimately his responsibility.

The Air Force places great trust in its constituent member's ability to manage their own and their dependents personal and financial affairs. The applicant, from the evidence provided, was given the opportunity to rebut both administrative actions as well as the referral report itself. No evidence has been provided in the appeal that any of the administrative actions commented on the report have been rescinded or otherwise invalidated.

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 an individual's record. The applicant has not substantiated that the contested report was not rendered in good faith by all evaluators based on knowledge available at the time.

The complete DPSID evaluation is at Exhibit B.

AFPC/DPSOE finds the report accurate as written and defers to the recommendation of DPSID.

The applicant was considered and tentatively selected for promotion to the grade of master sergeant (MSgt) during cycle 11E7. He received promotion sequence number 1560.0 which would have incremented 1 Sep 11; however, receipt of the referral EPR rendered him ineligible for promotion in accordance with AFI 36-2502, *Airman Promotion/Demotion Programs*. His line number to MSgt was subsequently removed. He remains ineligible for promotion consideration to MSgt during the current cycle (12E7) as he did not have a nonreferral report rendered prior to the cycle promotion eligibility cutoff date (31 Dec 11).

The complete DPSOE evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 25 Jun 12 for review and comment within 30 days (Exhibit D). As of this date, no response has been received by this office.

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 warranting avoidance and removal of the contested EPR from his records. We are not persuaded by the evidence provided that the contested report is not a true and accurate assessment of his performance and demonstrated potential during the specified time period, that the comments contained in the report are in error, and that the report was prepared in a manner contrary to the provisions of the governing instruction. Therefore, we agree with the opinion and recommendation of DPSID and adopt its 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 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-2012-00935 in Executive Session on 13 Sep 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 6 Mar 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSID, dated 21 May 12.
- Exhibit C. Letter, AFPC/DPSOE, dated 11 Jun 12.
- Exhibit D. Letter, SAF/MRBR, dated 25 Jun 12.

Panel Chair