

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01123

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His official records be corrected to show that:

1. His Fitness Assessment (FA) failure, dated 22 Nov 11, be declared void and removed from the Air Force Fitness Management System (AFFMS).
2. His referral Enlisted Performance Report (EPR), rendered for the period 1 Jun 11 through 20 Dec 11, be declared void and removed from his records.
3. He was promoted to the grade of Senior Airman (SrA), effective 1 Feb 12.

APPLICANT CONTENDS THAT:

He failed his FA due to a medical condition that required surgery. Since 21 Oct 11 he had been experiencing testicular pain that forced him to seek medical care, including a visit to the Emergency Room on 2 Nov 11. During his 22 Nov 11 FA, he experienced extreme pain which prevented him from completing the required number of sit ups.

On 28 Nov 11, he received an AF Form 469, *Duty Limiting Condition Report*, restricting his physical activity through 22 Jan 12. His condition required surgery on 14 Feb 12 to accomplish spermatic cord stripping and for orchodepexy (undescended testicle).

In support of his appeal, the applicant provides copies of letters of support from three members of his chain of command, and excerpts from his Chronological Record of Medical Care, his AFFMS Individual Assessment History, the contested EPR and his rebuttal thereto.

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

STATEMENT OF FACTS:

At the time of the failed FA, the applicant was serving in the Regular Air Force in the grade of Airman First Class (A1C).

On 22 Nov 12, the applicant only completed 41 sit ups during is FA, causing his score to be "unsatisfactory."

The applicant received a referral EPR for the period 11 Jun 11 through 20 Dec 11 because he was in "failed FA status" when the EPR came due based on a Change of Reporting Official (CRO). Because of the referral EPR, he was not eligible from promotion to Senior Airman (SrA) on his projected promotion date of 1 Feb 12.

IAW AFI 36-2915, *Fitness Program*, if a medical evaluation validates an injury/illness, the unit commander may invalidate the test results. Scores can be entered into the AFFMS on the sixth day if the Commander does not invalidate the test results. The Airman should notify his/her commander in a timely manner regarding the injury/illness to ensure communications regarding test validity with the Medical Treatment Facility (MTF) and Fitness Assessment Cell (FAC) staff occurs prior to score entry into the AFMMS.

The remaining relevant facts pertaining to this application are described in the letters prepared by the Air Force offices of primary responsibility which are included at Exhibits C, D, and E.

AIR FORCE EVALUATION:

AFPC/DPSIM recommends denial, indicating there is no evidence of an error or injustice. On 16 Apr 12, DPSIM sent the applicant a request for additional information, specifically, the AF Form 108, *Physical Fitness Education and Intervention Processing*, completed by the Military Treatment Facility. The member did not provide the requested documentation, therefore his request should be denied.

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

AFPC/DPSID recommends denial of the applicant's request to void and remove his referral EPR. The DPSIM evaluation stated the applicant did not provide the requested documentation. Therefore, based upon the failed FA, his referral EPR was valid and in accordance with all applicable Air Force policies and procedures. The applicant provides no evidence to show he sought to have the unit commander invalidate the test within five days of the failed FA; or if such a request was initiated, it was denied. An evaluation report is considered to represent the rating chain's best judgment at the time it was rendered. Once a report is accepted for file, only strong evidence to the

contrary warrants correction or removal from an individual's record.

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

AFPC/DPSOE recommends denial of the applicant's request to reinstate his promotion eligibility. The applicant would have been time-in-grade eligible for promotion to SrA on 1 Feb 12. However, the fact he received a referral EPR due to his FA failure rendered him ineligible for promotion in accordance with AFI 26-2502, *Airman Promotion Program*. Based on DPSIM's recommended denial of the applicant's request to void and remove his FA, and DPSID's recommended denial of the applicant's request to void and remove his referral EPR, the applicant's request for reinstatement of his promotion eligibility should also be denied. The applicant can be promoted no earlier than the close out date of an EPR with a rating of "3" or higher that is not a referral.

A complete copy of the AFPC/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 11 Sep 12 for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit F).

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. After a thorough review of the evidence of record and the applicant's complete submission, we believe a preponderance of the evidence supports corrective action. While we note the comments from AFPC/DPSIM indicating the applicant failed to provide an AF Form 108 in response to their request, we find the medical documentation submitted by the applicant indicating that his medical condition eventually required surgery and the supporting statements from his chain of command sufficient to establish that his condition prevented him from attaining a passing score on the contested FA. Therefore, we recommend the applicant's records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show:

a. His Fitness Assessment (FA), dated 22 November 2011, be declared void and removed from the Air Force Fitness Management System (AFFMS).

b. His Enlisted Performance Report, rendered for the period 1 June 2011 through 20 December 2011 be declared void and removed from his records.

c. He was promoted to the rank of Senior Airman (E-4), effective and with a date of rank of 1 February 2012.

The following members of the Board considered AFBCMR Docket Number BC-2012-01123 in Executive Session on 20 Nov 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 14 Mar 12, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, AFPC/DPSIM, dated 24 Jul 12.
Exhibit D. Letter, AFPC/DPSID, dated 17 Aug 12.
Exhibit E. Letter, AFPC/DPSOE, dated 22 Aug 12.
Exhibit F. Letter, SAF/MRBR, dated 11 Sep 12.

Panel Chair