

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01474
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

1. Her commander's decision to deny her reenlistment be overturned.
 2. Her letter of reprimand (LOR) dated 2 Mar 12, be rescinded.
 3. Her letters of counseling (LOCs) dated 7 Sep 11, and 3 Nov 11, be rescinded.
-

APPLICANT CONTENDS THAT:

1. Her supervisor failed to conduct performance feedback in accordance with (IAW) AFI 36-2406, *Officer and Enlisted Evaluation System* to discuss her conduct.
2. Her LOCs were not processed IAW AFI 36-2907, *Unfavorable Information File (UIF)* which states "the person who initiates the record of individual counseling (RIC), LOC, letter of admonition (LOA), or LOR has three duty days to advise the individual of their final decision regarding any comments submitted by the individual."
3. On 12 Mar 12, her commander non-recommended her for reenlistment; however section III of the AF Form 418, *Selective Reenlistment Program (SRP) consideration for Airmen in the Regular Air Force/Air Force Reserve* requires mandatory comments when an airmen is non-selected.
4. Her unit added new documents to her case file after she submitted her non-selection for reenlistment appeal package to the military personnel section (MPS). However, IAW AFI- 36-2606, *Reenlistments in the United States Air Force* she was not given three workdays to rebut the new information added to her case file.

In support of her request, the applicant provides a personal statement, copies of character references, AF IMT 102, *Inspector General Personal and Fraud, Waste and Abuse Complaint Registration*; AF Form 1058, *Unfavorable Information File Action*; AF Form 418, emails, LOCs and various other documentation associated with her request.

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

STATEMENT OF FACTS:

On 12 Mar 12, the applicant's supervisor initiated an AF Form 418 and non-recommended her for reenlistment. Her supervisor stated due to multiple disciplinary infractions, she was not conducive to the Air Force way of life. Her commander denied her reenlistment request.

On 13 Mar 12, the applicant acknowledged her non-selection and invoked her intent to appeal the denial decision. Reenlistment code (RE) code 2X, which denotes *First-term, second-term or career airman considered but not selected for reenlistment under the SRP* was updated IAW 36-2606, based on her commander's decision. The applicant filed an Inspector General (IG) complaint with the 30 Space Wing (30 SW). The following allegations were analyzed and resolved IAW AFI 90-301, *Inspector General Complaints Resolution*.

Allegation 1: Between 27 Feb - 1 Mar 12, the applicant alleged that Lieutenant Colonel (Lt Col) Y reprimed against her.

The applicant believed Lt Col Y reprimed against her because of the 27 Feb 12, memo she submitted to him for his consideration before he made his decision denying her reenlistment.

Finding: NOT SUBSTANTIATED

Allegation 2: On 2 Mar 12, the applicant alleged Senior Master Sergeant (SMSgt) O reprimed against her.

The applicant believed SMSgt O reprimed against her because of the 27 Feb 12, memo she submitted to Lt Col Y concerning her reenlistment. She believes SMSgt O issued her a LOR on 2 Mar 12, in reprisal. The LOR addressed her tardiness to work after the monthly wing mandated run.

Finding: NOT SUBSTANTIATED

Allegation 3: Between 1 - 12 Mar 12, the applicant alleged that Lt Col Y failed to follow the AF IMT 418 process.

The applicant believed Lt Col Y failed to follow the AF Form 418 process denying her the opportunity to appeal his decision to deny her reenlistment.

Finding: NOT SUBSTANTIATED

Allegation 4: The applicant believed Lt Col Y intended to place her on a control roster with a six-month observation that would

render her ineligible to reenlist because the six-month observation period ended after her date of separation (DOS).

Finding: NOT SUBSTANTIATED

On 21 Mar 12, the applicant submitted her non-recommendation for reenlistment appeal to the appeal authority (30 Operations Group commander).

On 30 Mar 12, the 30SW/IG notified her that an analysis determined there were no violations of any laws, policies, instructions, etc; therefore, IAW AFI 90-301, her complaint was dismissed. The IG stated her commander had followed the selective reenlistment process and was not placing her on the control roster. Further, the IG determined reprisal did not occur because the memo she submitted to her commander did not meet the criteria to make it a valid protected communication as outlined in DoD 7050.06 and AFI 90-301.

On 11 Apr 12, the 30OG/CC denied the applicant's appeal, stating she has demonstrated a pattern of behavior which is not consistent with the Air Force's highest professional standards. She acknowledged receipt of the denial of her appeal case.

On 3 Jul 12, AFPC/DPSOA requested the applicant provide the documents she contends were added to her appeal package without due process. On 24 Jul 12, in response to DPSOA's request, she stated after submitting her appeal package to the Force Support Squadron, she inquired about the status and was informed her unit had provided additional documentation (i.e. LOC, dated 7 Sep 11, LOC, dated 3 Nov 11, and a LOR, dated 2 Mar 12) to legal for their recommendation to the group commander. The applicant states she was not permitted to review the recommendation from the 30 SW legal office for reasons unknown.

On 11 Aug 12, the applicant was honorably discharged due to her non-selection for reenlistment; with an RE code of 2X and a Separation Code of JBK, which denotes Completion of Required Active Service. She served four years of total active service.

AIR FORCE EVALUATION:

AFPC/DPSIMC recommends denial of the applicant's request to remove her LOCs dated 7 Sep 11, and 3 Nov 11, and her LOR dated 2 Mar 12, from her records. DPSIMC states that per AFI 36-2907, commanders, supervisors, and other persons in authority can issue administrative counselings, admonitions and reprimands. Further, DPSIMC validated the LOCs and LOR were processed IAW AFI 36-2907.

The complete DPSIMC evaluation is at Exhibit C.

AFPC/DPSOA recommends denial of the applicant's request to change her reenlistment (RE) code. DPSOA states the applicant did not provide any evidence of an error or injustice pertaining to her denial of reenlistment appeal processing. LOCs/LORs are always included as "any other pertinent information" in appeal packages. Additionally, legal reviews are not considered new information IAW AFI 36-2606.

The complete DPSOA evaluation is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 7 Sep 12, for review and comment within 30 days (Exhibit E). As of this date, this office has not received a 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 error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we are not persuaded the applicant has been the victim of an error or injustice. Therefore, 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 that the applicant has not been the victim of an error or injustice. We note, the applicant alleges she has been the victim of reprisal; however, after review of the evidence presented, we find no evidence of reprisal and are not persuaded her commander's actions were improper, or that he abused his discretionary authority in this matter. In view of the above and in the absence of 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 Docket Number BC-2012-01474 in Executive Session on 15 Jan 13, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 1 Apr 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIMC, dated 29 May 12.
- Exhibit D. Letter, AFPC/DPSOA, dated 21 Aug 12.
- Exhibit E. Letter, SAF/MRBR, dated 7 Sep 12.

Panel Chair