

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 January 2024

DOCKET NUMBER: AR20230003224

APPLICANT REQUESTS: in effect, reconsideration of his previous request for removal of the general officer memorandum of reprimand (GOMOR), 13 May 2011, from his Army Military Human Resource Record (AMHRR).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- County Police Supplemental Report, 12 March 2011
- Lawrence Joel Army Health Clinic, Fort McPherson, GA, Memorandum (Family Advocacy Case Review Committee (CRC) Incident Determination), 19 May 2011
- Special Troops Battalion, Third Army/U.S. Army Central, Fort McPherson, GA, Memorandum (Letter of Support for (Applicant)), 26 May 2011
- Special Troops Battalion, Third Army/U.S. Army Central, Fort McPherson, GA, Memorandum (Memorandum of Reprimand (Applicant)), 31 May 2011
- Third Army/U.S. Army Central, Fort McPherson, GA, Memorandum (GOMOR Filing Determination, (Applicant)), 29 June 2011
- State Crime Information Center Criminal History Record, 10 October 2012
- Memorandum for Army Board for Correction of Military Records (Memorandum of Reprimand; (Applicant)), 8 July 2022
- Spouse's Letter, 8 July 2022
- County Sheriff's Office Notification of Expungement, undated
- Enlisted Record Brief

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20150005888 on 4 June 2015.
2. The applicant states he received a GOMOR on 13 May 2011. The civil charges against him were dismissed and his civil record was expunged. He should not have the GOMOR filed in his military records.

3. He enlisted in the Regular Army on 17 March 2005. He holds military occupational specialty 91D, Power Generation Repairer. He was promoted to sergeant (SGT)/E-5 in January 2010.
4. The County Police Supplemental Report, 12 March 2011, shows he was the subject of a domestic disturbance incident between him and his wife. He was taken into custody for battery/family violence and second-degree cruelty to children.
5. On 13 May 2011, he received a GOMOR for an incident of family violence wherein the Third Army/U.S. Army Central Commanding General stated:

You are hereby reprimanded for an incident of family violence. On the morning of 12 March 2011, you and your wife were involved in a physical altercation. When a verbal argument escalated, you chose to use physical force. Your wife informed the investigating officer that you punched her in the face and choked her during the physical altercation. There were marks on your wife's neck, a cut on her cheek, and a cut inside her mouth. There was a juvenile present in the room when you were striking your wife. The investigating officer determined that you were the aggressor in the situation and you were apprehended. You were transported to Clayton County Jail and turned over to jail personnel, where you were charged with battery family violence and cruelty to children 2d degree.

As a noncommissioned officer in the U.S. Army[,] you have a duty to act responsible in every situation, to do what is right, and to set a positive example for others. You have completely failed in these responsibilities and embarrassed and discredited yourself and the NCO [Noncommissioned Officer] Corps by your lack of judgment. Your behavior in this matter causes me to question your potential for further military service. Your behavior constitutes a serious departure from the high standards expected of a noncommissioned officer. You have violated a position of trust and confidence and have discredited yourself and the U.S. Army. I am gravely disappointed by your actions and expect your future conduct to be in accordance with the Army's finest standards and traditions.

This reprimand is imposed as an administrative measure and not as punishment under the provisions of Article 15, Uniform Code of Military Justice. I am considering filing this reprimand in your Official Military Personnel File. You may review the documents that formed the basis of this reprimand. You may submit matters in rebuttal, extenuation, and mitigation. In accordance with AR [Army Regulation] 600-37, paragraph 3-6, reply by the endorsement to the matters contained herein within seven (7) calendar days of receipt of this memorandum.

6. The Lawrence Joel Army Health Clinic, Fort McPherson, GA, Memorandum (Family Advocacy Case Review Committee (CRC) Incident Determination), 19 May 2011, states the CRC determined the incident did not meet the criteria for physical abuse and would enter the determination into the Department of Defense Central Registry database.

7. The Special Troops Battalion, Third Army/U.S. Army Central, Fort McPherson, GA, memorandum from the first sergeant (Letter of Support for (Applicant)), 26 May 2011, states the applicant has taken full responsibility for what happened and the repercussions of his actions. The applicant has wholeheartedly embraced all court-mandated requirements, and has gone above and beyond by taking additional corrective measures to ensure he does not have any anger management, stress, or alcohol problems. He also noted the applicant was seeking out additional marriage counseling. He urged the filing authority to consider the "whole Soldier" and to forgive the applicant for his mistakes and allow him to move forward in his career.

8. On 31 May 2011, he requested filing the GOMOR locally, allowing him to continue to serve with honor and no permanent blemishes on his record.

a. He fully accepted responsibility for his actions and admitted he was in the wrong and felt fortunate that his wife forgave him and declined to press criminal charges or testify against him.

b. He completed 20 hours of alcohol awareness training and 7 out of 10 ongoing anger/stress management sessions. He and his wife are separately attending marital counseling and intend to seek additional counseling.

9. On 29 June 2011, the imposing officer directed filing the GOMOR in his Official Military Personnel File (OMPF). The GOMOR is filed in the performance folder of his OMPF.

10. His State Crime Information Center Criminal History Record, 10 October 2012, shows the two misdemeanor charges of battery/family violence, two misdemeanor charges of battery, and one misdemeanor charge of cruelty to children had been dismissed on 27 June 2011 by reason of nolle prossed (legal notice or entry of record that the prosecutor or plaintiff has decided to abandon the prosecution or lawsuit) and his criminal records were expunged.

11. On 4 June 2015 in Docket Number AR20150005888, the ABCMR denied the applicant's request for removal of the GOMOR, 13 May 2011, from his OMPF. The Board found no evidence of an error or injustice. The Board determined the GOMOR was properly administered in accordance with applicable regulations and was properly filed in the performance folder of his OMPF.

12. The letter of support from his wife, 8 July 2022, states she and the applicant were involved in a domestic dispute at their previous home 12 years ago when they were young in their marriage. Since the dispute, they have both rehabilitated through multiple sessions of counseling and therapy. Her husband did not physically hurt her and the court case has been resolved. He should not have the GOMOR filed in his military records.

13. His memorandum for the ABCMR, 8 July 2022, requests removal of the GOMOR from the restricted folder of his OMPF due to effectively serving its purpose. All the charges against him were dismissed through civil court. The State Court and Family Advocacy CRC determined the incident did not meet the criteria for physical abuse. He received the GOMOR before his case was finalized. The police report that was on file was inaccurate, which caused him to be arrested on the night of 12 March 2011.

14. The undated document from the County Sheriff's Office notified him that his request for expungement of his criminal records was approved.

15. Since receiving the GOMOR, the applicant:

- Reenlisted in November 2016 and in January 2018
- Completed the Ordnance Senior Leader Course
- Was promoted to staff sergeant/E-6 in May 2017
- Was awarded multiple awards and personal decorations
- Received "Exceed Standards" NCO Evaluation Reports
- Served in Germany and Poland (in addition to previous service in Iraq, Kuwait, and Korea)

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was warranted. The applicant's contentions, his military records, and regulatory guidance were carefully considered.

a. The evidence shows on 12 March 2011, the applicant and his spouse were involved in a physical altercation. The applicant's spouse informed the investigating officer that during the altercation the applicant punched her in the face and choked her with a child present. There were marks observed on her neck, and she had a cut on her cheek and inside her mouth. This misconduct resulted in the applicant receiving a GOMOR which was directed for filing in his OMPF. The State Court decided against prosecuting him and the County Sheriff's Office later notified him that his request for expungement of his criminal records was approved. The GOMOR was properly administered in accordance with applicable regulations and is properly filed in his

OMPF. There is no evidence of record, and the applicant provides no evidence to show that the GOMOR is untrue or unjust.

b. However, since receiving the GOMOR, he has revealed nothing but a progressively noteworthy advancement both in achievements and maturity. He reenlisted twice, completed required professional military education, received multiple awards, and went on to serve in a variety of assignments, and he rose in the rank to SSG. In other words, despite the setback, he Soldiered on with a strong desire to serve and grow. As such, given the applicant's performance over the years, and potential to the Army, as a matter of equity and in the interest of justice, the Board determined this GOMOR should be removed from the restricted section of his AMHRR.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant amendment of the ABCMR's decision in Docket Number AR20150005888 on 4 June 2015. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by removing the general officer memorandum of reprimand, 13 May 2011, from his Army Military Human Resource Record (AMHRR).

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation 600-37 (Unfavorable Information), 10 April 2018, sets forth policies and procedures to authorize placement of unfavorable information about Army members in individual official personnel files; ensured that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and ensured that the best interests of both the Army and the Soldier are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

a. Chapter 3 (Unfavorable Information in Official Personnel Files) states an administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

b. Paragraph 3-5 (Filing of Nonpunitive Administrative Memoranda of Reprimand, Admonition, or Censure) states nonpunitive administrative letters of reprimand, admonition, or censure in official personnel files, such as a memorandum of reprimand, may be filed in a Soldier's AMHRR only upon the order of a general officer-level authority and is to be filed in the performance folder. The direction for filing is to be contained in an endorsement or addendum to the memorandum. If the reprimand is to be filed in the AMHRR, the recipient's submissions are to be attached. Once filed in the AMHRR, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states once an official document has been properly filed in the AMHRR, it is presumed to be administratively correct and to have been filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the AMHRR.

2. Army Regulation 600-8-104 (Army Military Human Resource Records Management), 7 May 2014, prescribes policies governing the Army Military Human Resource Records Management Program. The AMHRR includes, but is not limited to, the OMPF, finance-related documents, and non-service related documents deemed necessary to store by the Army.

a. Paragraph 3-6 states that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or other authorized agency.

b. Appendix B shows letters/memorandums of reprimand, censure, and admonition are filed in the performance folder unless directed otherwise by the DASEB.

//NOTHING FOLLOWS//