

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2024

DOCKET NUMBER: AR20230003517

APPLICANT REQUESTS: removal of the National Guard Bureau (NGB) Form 602 (Army National Guard Bar to Continued Service, Immediate Reenlistment, or Extension) 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)
- DA Form 8028-R (U.S. Army Reserve (USAR) Bar to Reenlistment Certificate), 10 December 2013
- U.S. Army Human Resources Command (HRC) Orders R-08-985614A02, 20 March 2014
- DA Form 5691-R (Request for Reserve Component Assignment Orders), 14 April 2014
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States), 15 April 2014, with associated documents
- HRC Orders C-04-405145, 15 April 2014
- DD Form 214 (Certificate of Release of Discharge from Active Duty), for the period ending 26 April 2014

FACTS:

1. The applicant states his records contain an NGB Form 602 that was erroneously added in August 2020 after his expiration term of service (ETS) from a U.S. Army Reserve (USAR) Active Guard Reserve (AGR) position in 2014. The bar was adjudicated in his favor with the help of his trial defense attorney prior to his expiration of term of service in 2014. The bar was not in effect during his subsequent enlistment in the USAR. His former command created a hostile work environment by placing more burden on him, his career, and his family life, as proven by filing the bar to reenlistment in his records 6 years after leaving the command. He has never enlisted in the Army National Guard. (Note: His AMHRR does not contain an NGB Form 602 but does contain a DA Form 8028-R, 10 December 2013; however, the Interactive Personnel Electronic Records Management System lists "NGB [Form] 602" and "Bar to

Reenlistment/Immediate Reenlistment" under name and title with an input date of 17 August 2020.)

2. He enlisted in the USAR on 27 March 2002. He was advanced to the rank/grade of specialist/E-4 effective 1 November 2004.

3. He reenlisted in the USAR on 25 October 2007 in the rank/grade of specialist/E-4 for a period of 6 years.

4. The DA Form 8028-R, 10 December 2013, shows his commander recommended his bar from reenlistment for continuing service as a member of the USAR in any status or category under the provisions of Army Regulation 140-111 (USAR Reenlistment Program), chapter 1, section VII.

a. Block 4 (Service Date) contains the entries:

- Total Military Service – 11 years, 7 months, and 12 days
- ETS Date (Contractual Obligation) – 26 March 2014
- Termination Date (Statutory Obligation) – 26 March 2010
- Current Release from Active Duty (REFRAD) Date (AGR Only) – 26 March 2014

b. Block 7 (Record of Non-Payment of Just Debts) notes: "[Applicant] was counseled regarding non-payment of OTC [sic] in September 2013. His account was greater than 120 days past due. He did repay the debt with a personal loan within two weeks of counseling."

c. Block 8 (Other Factual and Relevant Indicators of Untrainability of Unsuitability) notes: "[Applicant] has been counseled repeatedly regarding poor job performance and disregard of specific instructions regarding his job performance. He is argumentative and does not verbalize responsibility for his actions or inactions. He repeatedly states that someone else is at fault for his shortcomings."

d. His commander signed the form on 9 December 2013.

e. He reviewed this form, acknowledged having been counseled, and elected to submit a rebuttal statement in his own behalf on 10 December 2013. (Note: His AMHRR is void of a rebuttal statement.)

5. A review of his AMHRR shows the DA Form 8028-R is filed in the performance folder.

6. His DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 11 March 2014, shows he extended his current DD Form 4, 25 October 2007, for an additional 1 month, thereby establishing his new ETS date as 26 April 2014.
7. HRC Orders R-08-985614A02, 20 March 2014, changed his REFRAD as a member of the 7244th Installation Medical Support Unit to 26 April 2014.
8. The DA Form 4187 (Personnel Action), 1 April 2014, shows his commander reduced him in rank from corporal/E-4 to private first class/E-3 effective 1 April 2014 under the provisions of Army Regulation 600-8-19 (Enlisted Promotions and Reductions), paragraph 10-1b(1). The additional instructions note: "Directed action is based on attached supporting documents which indicate repeated failure to rehabilitate and perform assigned and directed duties."
9. The DA Form 4187, 4 April 2014, shows he requested voluntary REFRAD at the completion of his current AGR tour ending on 26 April 2014. The Southeast Medical Area Readiness Support Group Commander recommended approval on the same date.
10. The DA Form 5691-R, 15 April 2014, shows he requested enlistment in the USAR and assignment to the 94th Combat Support Hospital (CSH), Seagoville, TX.
11. HRC Orders D-04-490044, 15 April 2014, discharged him from the USAR AGR effective 26 April 2014 and assigned him to the 94th CSH.
12. He reenlisted in the USAR on 15 April 2014 in rank/grade of private first class/E-3 for a period of 6 years.
13. HRC Orders C-04-405145, 15 April 2014, attached him to the Fort Bragg Transition Point for separation processing with a reporting date of 25 April 2014.
14. He was honorably discharged from active duty on 26 April 2014 by reason of completion of required active service. His DD Form 214 shows he completed 4 years, 7 months, and 26 days of active service during this period. Block 18 (Remarks) contains the entry: "Block 9 [Command to Which Transferred]: 94 CSH Early Entry (WSBWB1) 701 West Simonds Road, Seagoville, TX 75159."
15. His DA Form 4836, 2 November 2019, shows he extended his current DD Form 4, 15 April 2014, for an additional 1 year, thereby establishing his new ETS date as 26 April 2021.
16. He was promoted to the rank/grade of sergeant/E-5 effective 1 February 2020.

17. He reenlisted in the USAR on 1 May 2020 in rank/grade of sergeant/E-5 for a period of 6 years.

18. Department of the Army Orders 0003828513, 31 December 2022, temporarily promoted him to the rank/grade of staff sergeant/E-6 effective 1 December 2022 pending successful completion of the Advanced Leader Course.

19. He is currently serving in the grade of rank/grade of staff sergeant/E-6 in a USAR AGR status with the 394th Field Hospital, Seagoville, TX.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition and military records, the Board determined the DA Form 8025-R (U.S. Army Reserve Bar to Reenlistment Certificate), initiated on 9 December 2013 and filed in the performance section of the applicant's Army Military Human Resource Record (AMHRR) has served its intended purpose. The applicant subsequently enlisted in the and extended as well as promoted after the bar was imposed and the Board concluded the evidence supports removal of the form from the 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 relief. As a result, the Board recommends that all Department of the Army and Army National Guard records of the individual concerned be corrected by removing the DA Form 8025-R (U.S. Army Reserve Bar to Reenlistment Certificate), dated 13 December 2013, and all associated documents from the applicant's AMHRR.

10/28/2024

X

CHAIRPERSON

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 140-111 (USAR Reenlistment Program), effective 9 June 2007 and in effect at the time, prescribed policies, responsibilities, and procedures for the USAR Reenlistment Program. It prescribed eligibility criteria for reenlistment and extensions and provided guidance for commanders and reenlistment and retention personnel in conducting the USAR reenlistment program. It provided guidance for processing for continuing membership of the following personnel: (a) Selected Reserve assignees in troop program units, in positions as individual mobilization augmentees; (b) on active duty in an AGR status; (c) Individual Ready Reserve assignees; and (d) Standby Reserve (Active List) assignees.

a. Section VII (Bar to Reenlistment Procedures) prescribed the procedures for denying reenlistment to persons whose reentry into, or continued service with, the USAR is deemed not in the best interest of the service. The procedures applied to the field commander's bar to reenlistment. They apply to personnel:

- assigned to a troop program unit or an individual mobilization augmentee of the Selected Reserve
- assigned to the Individual Ready Reserve
- assigned to the Standby Reserve
- serving on active duty in an AGR status

b. Paragraph 1-28c stated a bar to reenlistment is not a punitive action. Imposition of a bar to reenlistment does not preclude administrative separation at a later date. Normally, however, the bar to reenlistment should be initiated prior to a separation or judicial and/or nonjudicial action because it is intended to put the Soldier on notice that he or she is not a candidate for reenlistment and/or may be a candidate for separation if the circumstances that led to the bar to reenlistment are not overcome. Soldiers on indefinite reenlistments will not be barred from reenlistment but must be separated instead.

c. Paragraph 1-29e states normally a bar to reenlistment should not be initiated against an individual who has been assigned to a command for less than 90 days or during the last 90 days (30 days for an AGR Soldier) before the Soldier is discharged, transferred from the command, or REFRAD. If initiated during this period, the commander must provide a complete explanation as to why the action was not taken earlier. This explanation will be entered on the DA Form 8028-R.

d. Paragraph 1-31d stated bars may be initiated if administrative separation proceedings are not initiated. Soldiers may be barred from continued service for one or a combination of numerous infractions or reasons. Examples of rationale for imposition are:

- cannot follow orders, takes too much time, shirks responsibilities, or resists authority
- cannot train for a job; apathetic; disinterested
- adverse financial transactions or recurring debts

2. Army Regulation 600-8-104 (Army Military Human Resource Records Management), effective 2 September 2012 and in effect at the time, prescribed policies governing the Army Military Human Resource Records Management Program. The AMHRR includes, but is not limited to, the Official Military Personnel File, finance related documents, and non-service related documents deemed necessary to store by the Army.

a. Paragraph 3-6 provided that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the Army Board for Correction of Military Records or other authorized agency.

b. Appendix B (Documents Required for Filing in the AMHRR and/or Interactive Personnel Electronic Records Management System) contained the list of all documents approved by the Department of the Army and required for filing in the AMHRR and/or interactive Personnel Electronic Records Management System. Table B-1 (Authorized Documents) shows the DA Form 8028-R is filed in the performance folder.

//NOTHING FOLLOWS//