

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 January 2024

DOCKET NUMBER: AR20230003877

APPLICANT REQUESTS:

- removal of the general officer memorandum of reprimand (GOMOR), 19 March 2018, and all derogatory information from his Army Military Human Resource Record (AMHRR)
- consideration by a special selection board (SSB) for promotion to lieutenant colonel (LTC) with retroactive date of rank, if selected
- adjustment of his mandatory removal date (MRD) to 20 November 2030
- a personal appearance before the Board

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

- two DD Forms 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Letter to the Army Review Boards Agency, 15 March 2023
- U.S. Army Human Resources Command (HRC) Memorandum (Welcome to the U.S. Army Reserve (USAR) Active Guard Reserve (AGR) Program!), 1 March 2018
- Headquarters, 143d Sustainment Command (Expeditionary), Memorandum (GOMOR), 19 March 2018
- HRC Email (AGR Action), 29 March 2018
- Headquarters, 143d Sustainment Command (Expeditionary), Memorandum (Filing Determination of Reprimand – (Applicant)), 7 June 2018
- DA Form 67-10-2 (Field Grade Plate (O4-O5; CW3-CW5) Officer Evaluation Report (OER)) covering the period 22 July 2018 through 21 July 2019
- DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag), 20 September 2019
- Consideration for Referral to Show Cause, undated
- OER covering the period 22 July 2019 through 31 March 2020
- Department of the Army Suitability Evaluation Board (DASEB) Docket Number AR20190014144, 12 March 2020
- 86th Training Division (Operations) Memorandum (Notification of Involuntary Separation – (Applicant)), undated

- OER covering the period 1 April 2020 through 31 March 2021
- two Memoranda (Character Letter for (Applicant)), 22 May 2020 and 11 June 2020
- Ascension Providence Patient Discharge Instructions, 2 March 2021
- OER covering the period 1 April 2021 through 31 March 2022
- Memorandum (Character Reference for (Applicant)), 1 July 2021
- 85th Support Command Administrative Separation Board Proceedings, 29 April 2022
- Officer Record Brief, 13 August 2022
- Email (Reply: MRD Question), 20 December 2022
- Headquarters, USAR Command, Memorandum (Decision Memorandum – Administrative Separation Board for (Applicant)), 14 February 2023
- DA Form 638 (Recommendation for Award), 3 March 2023

#### FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states his record should be corrected because a Headquarters, Department of the Army (HQDA), separation board ruled to retain him in the USAR on 29 April 2022 and unsubstantiated the allegations in the reprimand filed in his Official Military Personnel File (OMPF).

a. Witness testimony during his separation board proceedings explained what really happened (see separation board summary). His separation board was originally scheduled for March 2021, but he was recovering from the coronavirus disease, which required him to have physical therapy for several weeks after being released from the hospital on 3 March 2021. He would not have been passed over for promotion if he had not received the GOMOR and flagging action during the promotion board process.

b. He further explains the circumstances surrounding the GOMOR as it pertains to Major (MAJ) [REDACTED] pay and promotion.

(1) He did everything he could to assist the staff with resolving the conflicts associated with MAJ [REDACTED] pay and promotion, and he was not responsible for the unit's command climate, which led to the battalion commander's relief within 60 days of his arrival to the unit. He could not have affected a Soldier's pay or promotion because he never had access or training to commit such an action. Even though he was the executive officer (XO) of the 375th Combat Sustainment Support Battalion (CSSB), the 143d Expeditionary Sustainment Command would not have given him access because

his position never required it. Witness testimony provided a detailed account regarding MAJ ██████ pay and promotion, and facts related to the command climate of the 375th CSSB.

(2) The Army Regulation 15-6 (Procedures for Administrative Investigations and Boards of Officers) investigation associated with the GOMOR concluded "there was not sufficient evidence to support allegations that MAJ ██████ was prevented from receiving a promotion while assigned to the 375th CSSB." The investigating officer (IO) concluded that he engaged in some form of "improper" action by "double slotting [assigning two persons against one authorized duty position]" the then-Captain (CPT) ██████ with another promotable CPT. However, there was no description of what "improper" action he engaged in. He also did not have access to the Regional Level Application Software to complete such a transaction.

(3) His career is being adversely impacted by an issue over which he had no control, involvement, or responsibility. As the 375th CSSB XO, he never had the access to affect any Soldier's career. The evidence showed he was not responsible for any improper actions. Thus, the GOMOR is unjust, untrue, and should be removed from his AMHRR. Furthermore, the undisputed evidence more than meets the evidentiary standard of clear and convincing evidence to remove the adverse information from his AMHRR.

c. With regard to him being responsible for the negative command climate within the 375th CSSB:

(1) As a 21-year veteran and having served under several battalion commanders, he has never received a negative counseling for such behavior, let alone a GOMOR. Over his career, he has served honorably as a battalion S-6, company commander, brigade maintenance officer, battalion S-1, battalion XO, and brigade S-1. He provided superior performance in every position as demonstrated in his OERs. His experience in these positions gave him the unique understanding of how to function in certain environments.

(2) When he arrived at the 375th CSSB in May 2016, he was eager to begin his new career as a military technician and XO for the same unit. He arrived at a difficult time and did not understand the culture before he arrived. The battalion commander, LTC ██████ was relieved of command in June 2016, a month after he arrived. Shortly thereafter, LTC ██████ took command and began preparing for a National Training Center (NTC) rotation. He had barely been there 60 days and had to prepare for one of the greatest missions of his career. During LTC ██████ tenure as the battalion commander, he received an Army Achievement Medal for his efforts preparing and his performance during the NTC rotation. In October 2016, LTC ██████ tenure came to an end and LTC ██████ became the battalion commander. During his first annual training

event under LTC [REDACTED] command, he was recommended for award of an Army Commendation Medal for his efforts during Exercise Vibrant Response and Exercise Guardian Response.

(3) As he began enforcing standards, the old culture was resistant to change. He had not experienced such blatant disregard for Army standards. He named several persons he felt were contributors to the poor command climate and his ability to effectively manage. Statements in the Army Regulation 15-6 report of investigation elaborated on and detailed these difficulties. His job as the battalion XO and the battalion Supervisory Staff Administrator required him to supervise Soldiers. The command chose to discipline him as a civilian and as a Soldier for a toxic climate that predated his arrival because he chose to fight for Army standards.

(4) He never retaliated against or threatened anyone on or off duty. The negative command climate was systemic in the 375th CSSB long before he arrived; he was not responsible for creating it. The Army Regulation 15-6 report of investigation encompassed 286 pages of reports, witness statements, and other evidence, and there are no statements of specific comments he made "threatening" MAJ [REDACTED] or anyone. Soldiers should not be subjected to adverse actions due to vague accusations void of specifics, yet it happened to him. He was accused of creating a toxic work environment and "threatening" individuals, yet no one came forward to validate these claims.

d. This ordeal has taken a toll on his family and hurt his military career. He has spent thousands of dollars defending himself against these allegations since 2018 and trying to salvage his career.

3. After a brief period of enlisted service in the [REDACTED] Army National Guard, he was appointed as an Army National Guard commissioned officer in the Chemical Corps on 18 September 2003. This appointment was terminated upon his acceptance of a USAR commission. He later changed his branch to the Signal Corps and ascended through the ranks until being promoted to MAJ/O-4 effective 1 July 2014.

4. On 10 August 2016, he was awarded the Army Achievement Medal for meritorious achievement during the NTC rotation from 22 July 2016 to 19 August 2016.

5. The 143d Sustainment Command (Expeditionary) memorandum (Appointment as IO), 22 November 2017, appointed an IO to conduct an investigation into the facts and circumstances surrounding allegations of exclusion, threats, abuse, and humiliation against the 375th CSSB Commander and XO.

6. The 143d Sustainment Command (Expeditionary) memorandum from the IO (Findings and Recommendations of IO), 28 December 2017, states she made the following findings relating to applicant after carefully considering the evidence:

a. Issue 1: What are the facts and circumstances surrounding the overall command climate in 375th CSSB? Has the Commander, 375th CSSB or Executive Officer (XO), 375th CSSB's leadership been a benefit or detriment to the command climate?

Substantiated. Analysis: Based on the collected testimonies and documents, I determined there is evidence to support that both, LTC [REDACTED] and [Applicant] in both capacities, military and civilian, have strongly contributed to the detriment and the poor command climate in the 375th CSSB command. [Applicant] fostered an environment of destructive leadership by constantly threaten[ing] personnel in open settings; and LTC [REDACTED] ability to lead, and build trust is questionable by being perceived as not engaged and allowing [Applicant's] conduct to continue despite being informed of his actions. They both failed to create a positive environment, and build trust as outlined in Paragraph 1-11 of AR [Army Regulation] 600-100 [Army Profession and Leadership Policy] and leadership principles discussed in ADP [Army Doctrine Publication] 6-22 [Army Leadership], and ADRP [Army Doctrine Reference Publication] 6-22 [Army Leadership]. It is also clear these two leaders don't trust each other, and communication between them both is broken which could potentially hinder their ability to promote a positive environment in the unit...In summary, the overall morale and command climate in the 375th CSSB seems to be poor and in a fragile state. Team and trust building activities, as well as notification of recognition and appreciation would go a long way to help rebuild the unit, and in particular the full time staff.

b. Issue 2: Was MAJ [REDACTED] prevented from receiving a promotion while assigned to the 375th CSSB in violation of Army Regulation (AR)?

Partially Substantiated. Analysis: Based on the collected testimonies and documents, I determined there is not sufficient evidence to support the allegation that MAJ [REDACTED] was prevented from receiving a promotion while assigned to the 375th CSSB in violation of Army Regulation (AR). MAJ [REDACTED] received his promotion to Major in March 2017 while assigned to the 375th CSSB. However, evidence shows MAJ [REDACTED] promotion was improperly delayed due to [Applicant's] decision to double slot CPT [REDACTED] into the Support Operations Officer position during September 2016 despite the fact there were two additional CPT/O3 positions the unit could have double slotted CPT [REDACTED] into. It was not until December 2016, when CPT [REDACTED] was transferred out of the unit, that LTC [REDACTED] received the [HRC Form] 56R (Promotion Qualification and Verification Statement) to certify MAJ [REDACTED] was in a valid vacant position and not double slotted. After signing the form, still took another three months for MAJ [REDACTED] to receive his

promotion orders. MAJ [REDACTED] finally received his promotion orders in March 2017, eight (8) months after selection to Major.

c. Issue 4: Were MAJ [REDACTED] annual training orders in April-May 2017 improperly amended? Was MAJ [REDACTED] properly paid for his annual training duty in April-May 2017?

Substantiated. Analysis: Based on the collected testimonies and documents I determined there is sufficient evidence to support the allegation that MAJ [REDACTED] annual training (AT) orders in April-May 2017 were improperly amended, and that MAJ [REDACTED] was improperly paid for his annual training duty in April-May 2017. MAJ [REDACTED] was initially put on AT Group orders to depart with the Main Body for the training period of 18 April 2017 to 13 May 2017. The Unit Administrator, Mr. [REDACTED], amended MAJ [REDACTED] AT Group order placing him on ANNEX F (Personnel excluded from Annual Training), in order to be able to issue MAJ [REDACTED] an individual AT order to travel to AT. Due to late DTS [Defense Travel System] approval, MAJ [REDACTED] arrived at AT on 19 April 2017, a day after the Group order's established reporting date (18 April 2017). Mr. [REDACTED] submit[ted] the original AT Group order for pay on 18 April 2017, which included MAJ [REDACTED] in the Main Body ANNEX, and also submitted MAJ [REDACTED] individual order for pay on 5 May 2017, which in turns [sic] trigger[red] a collection in DFAS. In addition, Mr. [REDACTED] improperly amended MAJ [REDACTED] individual AT order after it was submitted for pay instead of certifying the orders short one day. When he amended the order taking away the first day the system did another auto[matic] collect[ion]. Taking away the first day of the order where the pay was already initiated; technically the order no longer existed. Consequently, Mr. [REDACTED] had to resubmit the individual order for pay again. Due to these [sic] sequence of events, MAJ [REDACTED] acquired a tremendous debt that significantly impacted his finances. Evidence also shows the Battalion Commander and XO/SSA [supervisory staff administrator] [Applicant] did not actively follow up to ensure MAJ [REDACTED] pay issue was resolved, therefore, MAJ [REDACTED] found himself with no other option than to request assistance from the 143rd ESC [Expeditionary Sustainment Command] IG [Inspector General]. It is my personal opinion Mr. [REDACTED] poorly executed sound judgment handling MAJ [REDACTED] situation, and his actions show a lack of knowledge and training in regards of [sic] proper procedures to issue/amend orders as well as properly pay Soldiers and being able to assist solving their pay issues.

d. The remaining portions of the IO's report of investigation and recommendations are redacted.

7. On 2 March 2018, he received a welcome letter to the USAR AGR Program contingent upon meeting the selection requirements.

8. The Commanding General, Headquarters, 143d Sustainment Command (Expeditionary), reprimanded him in writing on 19 March 2018, wherein she stated:

You are hereby reprimanded for detrimental leadership that adversely affected the command climate within the 375th CSSB. An AR [Army Regulation] 15-6 investigation revealed that: (1) your leadership was a detriment to the command climate of the 375th CSSB; (2) you improperly delayed MAJ [REDACTED] promotion to MAJ; and (3) you failed to ensure that MAJ [REDACTED] was properly paid for annual training in April-May 2017.

As a Commissioned Officer, you have a duty to act responsibly in every situation, to do what is right, and to set a positive example for subordinates and others. You are also responsible for maintaining a positive environment within your unit and developing junior leaders. Your failure in each of these responsibilities leads me to seriously question your judgement and your potential for further military service.

This is an administrative memorandum of reprimand imposed under the provisions of AR [Army Regulation] 600-37 [Unfavorable Information] and not as punishment under Uniform Code of Military Justice. I intend to file this written reprimand in your Official Military Personal File (OMPF). You have thirty (30) calendar days from the date of receipt of this reprimand to submit matters in rebuttal on your behalf. Your response to this reprimand should be by memorandum to me submitted through your chain of command. I will withhold my final decision on the filing determination until I timely receive and consider any response you may choose to make.

Response to this reprimand or request for extension of your response period will be made in writing to the Office of the Staff Judge Advocate, 143d Sustainment Command (Expeditionary).

9. Email correspondence with HRC on 29 March 2018 notified him of an AGR action to withdraw his AGR offer due to being flagged. He was advised to contact the team once the action was remedied. The flagging action is unavailable for review.

10. On 16 April 2018, he submitted a rebuttal to the GOMOR, citing the following reasons:

Several of the allegations against me were fabricated. I was assigned to the 375th CSSB and placed in the XO position. The XO drills once a month and

attends annual training. I'm the BN [battalion] Executive officer, not the BN [battalion] commander. The [Army Regulation] 15-6 investigation named LTC [REDACTED] as the primary culprit as it relates to leadership concerns. I would not go as far as saying he is toxic. However, it would be more appropriate to say LTC [REDACTED] is just a commander that [sic] was not properly mentored by his immediate chain of command (COL [REDACTED]) who was relieved of command recently. Moreover, early in his tenure, LTC [REDACTED] was disengaged and not fully aware of the multitude of responsibilities, and amount of time this BN [battalion] needed to rebuild and recover from previous poor leadership, earlier in his tenure. Furthermore, Additionally, CPT [REDACTED] was the subject in a separate investigation, specifically as being a Soldier named as being not only toxic, but also having anger issues. Disciplinary action was never levied against the Soldier, and it is unclear if the investigation was ever closed.

The purpose of this rebuttal is to expound upon your concerns.

Detriment to the command: As far as being a detriment to the command. Many Soldiers and civilians do not interpret my leadership as a detriment to the command. There are civilians and Soldiers of the 321st SUS BRIGADE that are baffled by the allegations. None of the FTUS [Full Time Unit Support] at the subordinate units were questioned, even after some of the personnel who provided sworn statements told the investigating officer they should be questioned. Soldiers and civilian members alike provided statements that depicted what was really going on, and based on the results of the investigation, it is clear that information was not considered to contradict the allegations and viewed as having no merit. That information was purposely ignored throughout this ordeal.

MAJ [REDACTED] Promotion: CPT [REDACTED] was pursuing a promotion within the 375th CSSB. When CPT [REDACTED] was reassigned to the 375th CSSB, came back in June of 2016, that's when LTC [REDACTED] was the commander. LTC [REDACTED] assumed command on 6 June 2016. Between COL [REDACTED] and LTC [REDACTED] the search for a[n] SPO [support operations officer] had already started, and CPT [REDACTED] was selected during the time that CPT [REDACTED] was assigned to the 350th [Civil Affairs Command]. CPT [REDACTED] was the senior CPT at the time and was chosen to be the SPO. My job as the BN [battalion] Executive Officer was to ensure the transfer was completed in a timely manner according to all applicable regulations. The Unit Administrator Mr. [REDACTED] was attempting promote CPT [REDACTED] against the SPO slot that CPT [REDACTED] was to occupy. I do not have access to the proper records that depict CPT [REDACTED] exact position once he came back to the 375th CSSB. Moreover, the Soldier did not have a valid APFT [Army Physical Fitness Test] on file. According to DTMS [Digital Training Management System] which is the system of records, CPT [REDACTED] had a



PT [APFT] test on file that was dated May 1, 2016 which the Soldier failed. The Soldier was flagged until he passed an APFT. The Soldier passed an APFT on October 15, 2016. This APFT was conducted while he was on temporary [physical] profile according DTMS which is the system of records. I do not remember what position CPT [REDACTED] was assigned to when he voluntarily transferred back to the 375th [CSSB], however, he complained quite a bit that he was supposed to be in the SPO position and wanted to know why it had been coded as reserved for an active component officer. Mrs. [REDACTED] explained to him that the 375th had been a multi component unit in the past, and a position coded for an active component officer couldn't be done at our level, so his inquiry would have to be elevated. CPT [REDACTED] was assigned September 01, 2016. However, she only stayed about 3 months, as LTC [REDACTED] sent her to be the 540th Company Commander. Both Soldiers had concerns, but CPT [REDACTED] seemed to be a better candidate at the time according to both Soldiers records, plus CPT [REDACTED] had not been boarded. Since CPT [REDACTED] was transferred to the 540th, hence vacating the SPO position, and CPT [REDACTED] was moved into that the SPO position. Approximately 3 months later CPT [REDACTED] was assigned to the position. It is still, to this day coded as "reserved for AC [Active Component]". CPT [REDACTED] paperwork for promotion wasn't initiated until after LTC [REDACTED] took command in November 2016. The initiating of promotion documents is solely a Unit Administrator function. I recall LTC [REDACTED] questioning me about CPT [REDACTED] prior to him signing the [HRC Form] 56-R. LTC [REDACTED] signed the [HRC Form] 56-R on 7 December 2016. The promotion packet was loaded into EPAT [Executive Performance and Appraisal Tool] on 6 January 2017.

As the BN [battalion] XO or the BN [battalion] SSA, I do not process Soldiers pay. The Unit Administrator/Army Reserve Administrator (Mr. [REDACTED]) processes all Soldiers pay for 375th CSSB HHC [Headquarters and Headquarters Company] element. MAJ [REDACTED] pay problem occurred because the Soldier was paid twice and the money was recouped. The Soldier was paid on an individual order and a group order by the Unit Administrator Mr. [REDACTED]. Furthermore, my only legitimate concern in this situation was the fact that when the Unit Administrator questioned me about what he should do because the Soldier missed movement because of due to [sic] personal reasons. MAJ [REDACTED] was the SPO at VR/GR [Exercise Vibrant Response/Guardian Response] at Camp Atterberry [Atterbury], Indiana so he needed to be there sooner, rather than later. As the BN [battalion] Executive Officer, I advised Mr. [REDACTED] that he should amend his orders to reflect the actual departure day versus fraudulently paying the Soldier for duty that did not perform on a prescribed date. Regardless of the circumstances, this is the only time I provided guidance regarding MAJ [REDACTED] annual training. I was constantly engaged with the BN [battalion] S-1 staff regarding the Soldier's pay. It is unfortunate the Soldier was overpaid. This is not an anomaly within the

United States Army. We don't want it to happen, but sometimes it does and normally a Soldier notices such a large deposit (TWICE) and will immediately notify the pay administrator. As the BN [battalion] Executive Officer, I do not control the processing of pay. The Unit Administrator was solely responsible for submitting orders for pay under two different orders. The system should not have allowed overlapping orders to be processed. I humbly request additional information as it relates to MAJ [REDACTED] pay inquiry. I would like a copy of the transcript depicting who in the 375th CSSB submitted the RFO's [requests for orders] for each of his orders leading up to prescribed event. I do not have the proper access to retrieve such information.

Lastly, I appreciate you giving me the opportunity to respond to your proposal. I would like to be taught how to be a better leader based on written guidance and positive mentoring. With over 18 years of faithful service, I have never encountered such allegations nor has a leader ever counseled me for allegations mentioned in the [Army Regulation] 15-6 [report of investigation]. I joined the military to serve others, not myself. The time I have given to the [A]rmy is something I will never get back. I enjoy the sacrifice and the fact that I have help[ed] several Soldiers maximize their careers. I really look forward to continuing to serve in the United States Army Reserve.

11. On 7 June 2018 after carefully considering the circumstances of the misconduct; the recommendations made by the applicant's chain of command; and all matters submitted by the applicant in defense, extenuation, or mitigation; the commanding general directed permanently placing the GOMOR in the applicant's AMHRR. She further directed that all enclosures will be forwarded with the reprimand for filing as appropriate.

12. His annual OER covering the period 22 July 2018 through 21 July 2019 shows his rater rated his performance as "PROFICIENT" and provided positive comments.. His senior rater rated his potential as "HIGHLY QUALIFIED" and provided exemplary comments.

13. On an unknown date he was notified of the potential for his involuntary separation and his available options. He was required to show cause for retention in the service under the provisions of Army Regulation 135-175 (Army National Guard and Reserve – Separation of Officers), paragraph 2-12 (Substandard Performance of Duty) and paragraph 2-13 (Acts of Misconduct or Moral or Professional Dereliction). On 20 September 2019, a flag was initiated against the applicant as part of his potential HQDA involuntary separation.

14. He provided an undated extract of a consideration for referral to show cause addressed to him. The document notes:

a. As a result of deliberations during the Fiscal Year 2019 LTC, Army National Guard of the United States, Army Reserve AGR, and Army Reserve Non-AGR), Army Promotion List Competitive Categories, Promotion Selection Board, a majority of the members voted that he be required to show cause for retention in an active status for substandard performance.

b. His AMHRR indicates a GOMOR, 19 March 2018, for detrimental leadership that adversely affected the command climate within his unit.

c. After reviewing his overall record, a majority of the board members recommended that he be required to show cause for retention in the USAR in accordance with the provisions of Army Regulation 135-175.

15. His annual OER covering the period 22 July 2019 through 31 March 2020 shows his rater rated his performance as "EXCELS" and provided positive comment. His senior rater rated his potential as "MOST QUALIFIED" and provided exemplary comments.

16. On 12 March 2020, the DASEB determined the evidence presented did not establish clearly and convincingly that the GOMOR is untrue or unjust and the overall merits of the case did not warrant removal of the GOMOR from his AMHRR. The DASEB noted:

a. The administrative reprimand is a management tool within the sole discretion of the issuing authority (IA). The IA stated he considered the circumstances surrounding this action, the appellant's response, and directed permanently filing the GOMOR. The IA was not bound by the findings or recommendations of the Army Regulation 15-6 IO or the appellant's chain of command.

b. The appellant stated the GOMOR is in retaliation; however, the evidence submitted does not substantiate his contention. The appellant did not submit any new evidence to substantiate the contention that the investigation was not conducted in accordance with governing authorities.

c. The IA determined that he had sufficient evidence upon which to base a decision and determined the appellant's actions merited issuance of a GOMOR. While the appellant may disagree with the IA's decision to issue him a GOMOR, it was within the IA's authority to do so.

d. A legal review concluded the Army Regulation 15-6 investigation was legally sufficient, complied with legal requirements, and there were no errors which would adversely affect the outcome of the proceedings. The response from the Congressional inquiry did not substantiate the appellant's contention that the GOMOR was unjust.

e. Filing of the GOMOR was not unjust. The governing regulation permits the issuance of a written reprimand when there is reasonable belief that someone has deviated from the Army Values, personal conduct, or the expectations of a Soldier. The IA believed the preponderance of evidence supported the allegations. The appellant has not provided clear and convincing evidence showing the GOMOR is unjust, or that he should not be held liable for the alleged misconduct addressed in the GOMOR.

f. There is a presumption of regularity in the preparation of the GOMOR that shall be applied unless there is clear and convincing evidence to rebut the presumption. Once a GOMOR is properly filed in the AMHRR, it is presumed to be administratively correct and filed pursuant to an objective decision by competent authority.

g. The DASEB, in compliance with Army Regulation 600-37, does not have a policy of removing unfavorable information based on an alleged injustice resulting from non-selection for promotion, schooling, previous evaluations or special assignments.

17. His annual OER covering the period 1 April 2020 through 31 March 2021 shows his rater rated his performance as "PROFICIENT" and provided positive comments. His senior rater rated his potential as "HIGHLY QUALIFIED" and provided exemplary comments.

18. The HRC memorandum (Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter)), 20 December 2020, notified him that he completed the required qualifying years of service for retired pay upon application at age 60.

19. He provided four character-reference letters addressed to the reviewing authority for removal of the GOMOR from his AMHRR. These letters noted he is a model officer, among the best, and considered one of the top performers in the unit. His work ethic, attention to detail, and superb attitude is contagious. He inspired them to become a cohesive logistics team, which was positively noticed throughout the command. He takes great pride in his duties and assignments, and stays on track with the commanders' intent. They never witnessed or heard of him doing anything illegal or unethical. He is a Soldier of the highest caliber and a valuable asset to the U.S. Army, who has great potential for continued service and responsibility. The USAR would benefit from his continued service and he should be retained.

20. A patient discharge instruction sheet shows he was hospitalized with coronavirus disease and several other diagnoses from 1 February 2021 until 2 March 2021.

21. His annual OER covering the period 1 April 2021 through 31 March 2022 shows his rater rated his performance as "EXCELS" and provided positive comments. His senior rater rated his potential as "MOST QUALIFIED" and provided exemplary comments.

22. On 29 April 2022, an administrative separation board convened as ordered and appointed by the Commanding General, 86th Training Division, on 23 March 2022. The appointment memorandum and the referral memorandum are not available for review.

a. The board, having carefully considered the evidence, found:

(1) Allegation 1: The applicant "did not" fail to exercise necessary leadership or command required of an officer of his grade for detrimental leadership that adversely affected the command climate within the 375th CSSB by improperly delaying MAJ [REDACTED] promotion to MAJ.

(2) Allegation 2: The applicant "did not" fail to exercise necessary leadership or command required of an officer of his grade for detrimental leadership that adversely affected the command climate within the 375th CSSB by failing to ensure that MAJ [REDACTED] was properly paid for annual training for the period April-May 2017.

(3) Allegation 3: The applicant "did not" intentionally neglect or fail to perform his assigned duties while serving as XO of the 375th CSSB that adversely affected the command climate within the 375th CSSB by improperly delaying MAJ [REDACTED] promotion to MAJ.

(4) Allegation 4: The applicant "did not" intentionally neglect or fail to perform his assigned duties while serving as XO of the 375th CSSB that adversely affected the command climate within the 375th CSSB by failing to ensure that MAJ [REDACTED] was properly paid for annual training for the period April-May 2017.

(5) Allegation 5: The applicant "did not" engage in conduct unbecoming an officer by failing to ensure that MAJ [REDACTED] was properly paid for annual training for the period April-May 2017.

(6) Allegation 6: The applicant "did not" engage in conduct unbecoming an officer by failing to ensure that MAJ [REDACTED] was properly paid for annual training in April and May 2017.

b. In view of the above findings, the board recommended the applicant's retention.

23. His Officer Record Brief, 9 July 2020, shows he successfully deployed to Iraq for 18 months between 2008 and 2009 and to Afghanistan for 11 months between 2013 and 2014.

24. The email correspondence (Reply: MRD Question), between 28 November 2022 and 20 December 2022, referenced his MRD and noted his removal was due to being passed over for promotion two times.

25. The Headquarters, USAR Command, memorandum (Decision Memorandum – Administrative Separation Board for (Applicant)), 14 February 2023, approved the 85th Support Command Administrative Separation Board results.

26. On 16 March 2023, he was awarded the Meritorious Service Medal for meritorious service and achievements from 1 April 2020 to 2 February 2023.

27. HRC Orders 0006167131.00, 2 October 2023, mandatorily retired him from the USAR effective 1 October 2023 by reason of non-selection of permanent promotion.

#### BOARD DISCUSSION:

1. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was not warranted. The Board carefully considered the applicant's contentions, his military records, and regulatory guidance. One possible outcome was to grant relief; however, based on the preponderance of the evidence available for review, the Board determined the evidence insufficient to warrant a recommendation for relief and removal of the GOMOR from his Army Military Human Resource Record.

3.. The Board further agreed that any documentation provided by the applicant did not contradict evidence of record or indicate that any information regarding the adverse action was untrue or unjust in whole or in part to weigh in favor of the applicant. Additionally, the applicant received all due process rights during the processing of the GOMOR, so the Board concluded there is insufficient evidence of an error or injustice its removal. After due consideration of the request, the Board determined the evidence presented did not meet the burden of proof in determining the basis for the adverse action was untrue or unjust, in whole or in part and a recommendation for relief is not warranted.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned by removal of the general officer memorandum of reprimand (GOMOR), 19 March 2018, and all derogatory information from his Army Military Human Resource Record (AMHRR)

2. The Board further determined the evidence presented is insufficient to warrant the remaining portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertain to:

- consideration by a special selection board (SSB) for promotion to lieutenant colonel (LTC) with retroactive date of rank, if selected
- adjustment of his mandatory removal date (MRD) to 20 November 2030

3/4/2024

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. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR will decide cases on the evidence of record; it is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 135-155 (Army National Guard and Army Reserve – Promotion of Commissioned Officers and Warrant Officers Other Than General Officers) prescribes the policies and procedures for promotion of Reserve officers.

a. Promotion reconsideration by an SSB may only be based on erroneous non-consideration or material error which existed in the records at the time of consideration. Material error in this context is one or more errors of such a nature that, in the judgment of the reviewing official (or body), caused an individual's non-selection by a promotion board and, that had such error(s) been corrected at the time the individual was considered, a reasonable chance would have resulted that the individual would have been recommended for promotion.

b. Paragraph 3-21b states an officer who twice fails of selection for promotion to the grade of CPT, MAJ, or LTC will be separated in accordance with paragraph 3-22 unless subsequently placed on a promotion list, selected for continuation, or retained under any other provision of law (for example, sanctuary).

c. Paragraph 3-22 states a MAJ on the Reserve Active Status List who has failed to be selected for promotion to LTC for the second time, and whose name is not on a list of officers recommended for promotion to LTC, will be removed from the Reserve Active Status List unless retained as provided in Title 10, U.S. Code, section 14701; Title 10, U.S. Code, section 14702; Title 10, U.S. Code, section 14703; or Title 10, U.S. Code, section 12646 or 12686. Removal will be on the later of the first day of the month after the month in which the officer completes 20 years of commissioned service, or the first



day of the seventh month after the approval date of the promotion board report that non-selected the officer for the second time.

4. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to ensure the best interests of both the Army and Soldiers are served by authorizing unfavorable information to be placed in, transferred within, or removed from an individual's AMHRR.

a. 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. A memorandum of reprimand may be filed in a Soldier's OMPF 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 OMPF, the recipient's submissions are to be attached. Once filed in the OMPF, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states that once an official document has been properly filed in the OMPF, 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 OMPF.

d. Paragraph 7-3c (Filing Authority to Redress Actions) states an officer who directed filing an administrative memorandum of reprimand, admonition, or censure in the AMHRR may request its revision, alteration, or removal, if evidence or information indicates the basis for the adverse action was untrue or unjust, in whole or in part. An officer who directed such a filing must provide a copy of the new evidence or information to the DASEB to justify the request.

5. Army Regulation 600-8-104 (Army Military Human Resource Records Management) prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the AMHRR. 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 (Authority for Filing or Removing Documents in the AMHRR Folders) provides 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 another authorized agency.

b. Appendix B (Documents Required for Filing in the AMHRR and/or Interactive Personnel Electronic Records Management System) shows memorandums of reprimand, censure, and admonition are filed in accordance with Army Regulation 600-37.

//NOTHING FOLLOWS//