

IN THE CASE OF: ██████████

BOARD DATE: 6 March 2024

DOCKET NUMBER: AR20230004911

APPLICANT REQUESTS: removal of the Army Good Conduct Medal (AGCM) disqualification memorandum, 14 March 2022, 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)
- 741st Military Intelligence Battalion Permanent Orders 93-0001, 3 April 2023

FACTS:

1. The applicant states he was erroneously barred to reenlist after he met the satisfactory weight loss requirements each month in accordance with Army Regulation 600-9 (The Army Body Composition Program). According to Army Regulation 600-9, a bar to reenlist or initiation of separation proceedings can only be initiated if the Soldier is in the program for over 6 months and has 3 nonconsecutive months of less than satisfactory progress. He only had one failing tape measure while in the Army Body Composition Program after he returned from secondary care giver leave. His bar to reenlist was effective 29 March 2022. His eligibility date for award of the AGCM was 16 March 2022 in his service record. However, when he checked his AMHRR, his eligibility date was shown as 28 March 2022. After the discrepancy was discovered, his company commander retroactively awarded him the Army Good Conduct Medal.

2. The applicant enlisted in the Regular Army on 3 January 2013 and subsequently reenlisted on 1 July 2016 and 22 November 2019. He is currently serving on active duty in the rank/grade of sergeant/E-5.

3. 209th Aviation Support Battalion, 25th Combat Aviation Brigade, Permanent Order 022-013, 22 January 2016, awarded him the AGCM (1st Award) for the period 3 January 2013 to 2 January 2016.

4. Headquarters and Headquarters Company, 3rd Battalion, 15th Infantry Regiment, 2nd Armored Brigade Combat Team, 3rd Infantry Division, Permanent Order 002-001,

2 January 2019, awarded him the AGCM (2nd Award) for the period 2 January 2016 to 2 January 2019.

5. Headquarters and Headquarters Company, 704th Military Intelligence Brigade, memorandum from the commander (Disqualification of the AGCM), 14 March 2022, states:

You are disapproved for the award of the Army Good Conduct Medal for the period of Active-Duty Service from 20190103 to 20220102 [3 January 2019 to 2 January 2022]. Individuals whose retention is not warranted or for whom a bar to reenlistment has been approved under the provisions of AR [Army Regulation] 601-280 [Army Retention Program] (specifically for the reasons enumerated in AR [Army Regulation] 601-280) are not eligible for award of the AGCM.

Your new eligibility period begins immediately after the end date listed in paragraph 1 of this memorandum. The local record custodian will record this date in your Enlisted Record Brief.

A rebuttal in writing may be submitted no later than three working days for reconsideration of my decision. Failure to submit rebuttal within the allowed time will finalize this action as stated.

This memorandum will be forwarded to your Official Military Personnel File (OMPF) for permanent filing in accordance with AR [Army Regulation] 600-8-22 [Military Awards], paragraph 2-10.

d. The applicant signed the memorandum on 15 March 2022 and placed an "X" on the line acknowledging he read and understood the unfavorable information presented against him and elected to not make statement.

6. His records do not contain any evidence indicating he participated in the Army Body Composition Program or was barred from reenlistment.

7. 741st Military Intelligence Battalion Permanent Orders 93-0001, 3 April 2023, awarded him the AGCM (3rd Award) for the period 3 January 2019 to 2 January 2022.

BOARD DISCUSSION:

1. 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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on

law, policy and regulation. Upon review of the applicant’s petition and available military records, the Board determined there is insufficient evidence to support removal of the Army Good Conduct Medal (AGCM) disqualification memorandum from the applicant’s records. Evidence shows the applicant was barred and after meeting the weight standards was awarded the Army Good Conduct Medal. The Board found no error or injustice, based on the preponderance of evidence, relief was denied correction of the applicant’s records.

2. This Board is not an investigative body. The Board members determined that the burden of proof lies with the applicant; however, he did not provide any supporting documentation and his service record has insufficient evidence to support he was barred to reenlist due to overweight.

3. The purpose of maintaining the Army Military Human Resource Record (AMHRR). is to protect the interests of both the U.S. Army and the Soldier. In this regard, the AMHRR serves to maintain an unbroken, historical record of a Soldier's service, conduct, duty performance, and evaluations, and any corrections to other parts of the AMHRR. Once placed in the AMHRR, the document becomes a permanent part of that file and will not be removed from or moved to another part of the AMHRR unless directed by an appropriate authority. There does not appear to be any evidence the contested Army Good Conduct Medal (AGCM) disqualification memorandum was unjust or untrue or inappropriately filed in the applicant's AMHRR.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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.


XCHAIRPERSON


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 600-8-22 (Military Awards) prescribes Department of the Army policy, criteria, and administrative instructions concerning individual and unit military awards. Paragraph 4-7 provides for disqualification of the AGCM.

a. Individuals whose retention is not warranted or for whom a bar to reenlistment has been approved are not eligible for award of the AGCM.

b. In instances of disqualification as determined by the unit commander, the commander will prepare a memorandum stating the rationale for his or her decision. This memorandum will include the period of disqualification and will be referred to the individual. The unit commander will consider the affected individual's statement. If the commander's decision remains the same, the records manager will web upload the memorandum and the individual statement for filing in the Soldier's OMPF.

c. Disqualification for an award of the AGCM can occur at any time during a qualifying period (for example, when manner of performance or efficiency declines). The personnel office will establish the new "beginning date" for the Soldier's eligibility for award of the AGCM, enter the new date and code on the Soldier's electronic military personnel office record, and submit the electronic military personnel office transaction. These procedures do not apply if a Soldier is disqualified under the provisions of paragraph b.

2. Army Regulation 600-37 (Unfavorable Information) provides 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. Appeals that merely allege an injustice or error without supporting evidence are not acceptable and will not be considered.

3. Army Regulation 600-8-104 (Army Military Human Resource Records Management) 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 provides 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 Army Military Human Resource Record and/or Interactive Personnel Electronic Records Management System) contains 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. The disqualification memorandum for the AGCM is filed in the performance folder of the Soldier's OMPF.

//NOTHING FOLLOWS//